













PATENTS  
TRADEMARKS DESIGNS  
COPYRIGHTS

BY  
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## PREFACE

The object of the writer has been to compile a book for the sole use of solicitors and patent attorneys and to place before them in a compact and succinct form, capable of quick reference, such matters concerning requirements, regulations and routine work appertaining to domestic and foreign patents, trademarks, designs and copyrights as constitute the subject of everyday questions in the offices of the profession.

This book has been divided into two parts:

Part I has been devoted to the regulations and requirements for domestic and foreign applications for patents, trademarks, designs and copyrights.

The information contained in its pages has been carefully checked from official information and every effort has been made to convey to attorneys a clear impression of the requirements of each country.

Part II is confined to the patent and trademark laws of the United States of America, Dominion of Canada, Newfoundland, the Spanish-American Republics, Brazil and the Republic of Haiti.

B. SINGER.

Chicago, Illinois,

September, 1907.



## ARGENTINE REPUBLIC.

### PATENTS.

**Term.**—Five, ten or fifteen years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Legalized power of attorney; specification in duplicate. Where foreign patent exists the number and date of same must be furnished. When the application is in the name of the assignee, the power of attorney must be signed by assignor and assignee. Drawings in duplicate, two on tracing cloth and one on bristol board, size 8½x13 inches.

**Taxes.**—\$20 annually from date of grant, whether the term of the patent is five, ten or fifteen years.

**Working.**—Working in Argentine Republic must be proven within two years after issuance of patent and must be real and effective; cost \$75.

**Assignment.**—Preparing and recording, including consular fee, \$25.

### TRADE MARKS.

**Duration.**—Ten years, may be extended.

**Requirements.**—Spanish power of attorney legalized by the Argentine Consul; seven facsimiles of mark; and one electrotypewriter.

### COPYRIGHTS.

No law exists for the protection of copyrights.

### DESIGNS.

No law exists for the protection of designs.

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## COMMONWEALTH OF AUSTRALIA.

### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—(1) The actual inventor or inventors. (2) The assignee or assignees, agent or agents, attorney or attorneys, nominee or nominees of the actual inventor or inventors, providing that the said agents, attorneys or nominees are resident in Australia. (3) The actual inventor or inventors jointly with an assignee or assignees of a part or share in the invention. (4) Any person within the Commonwealth to whom an invention has

been communicated by the actual inventor or inventors, or the assignee or assignees of same, provided that the said inventor or inventors, assignee or assignees, do not reside in Australia.

**Requirements.**—For a “communicated” application: (1) Communication, one copy signed by the inventor and a witness. Any form. (2) Specification, eight copies, unsigned. Carbons are flatly refused. (3) Drawings. For an application by inventor or inventors: (1) Statement of address and appointment of attorney, one copy signed by the applicant or applicants. (2) Application, one copy signed by applicant or applicants in the presence of a witness for each signature. (3) Specification, eight copies. (4) Drawings. For an application by an assignee: (1) A special application form is required. The assignment from the inventor or inventors should be provided. For an application by a company: A special application form is required. The assignments from the inventor or inventors should be provided. Attempts to file any description of “carboned” copies of documents meet with instant rejection.

**Drawings:** Two copies must be prepared on white Imperial drawing paper, and one copy on tracing cloth, and a fourth copy on any paper for our use. Sheets larger or smaller than 13 inches high or 8 inches wide will be rejected. If the invention necessitates large drawings they must be drawn in sections on detached 13x8 inch sheets. The number of these may be unlimited. The margin must be a single line drawn half an inch all around from the edge. The reference letters must not be smaller than one-eighth of an inch in height. Best jet black glossy Indian ink must be used. Only the best of good lithographs will be accepted. Section lines must not be drawn closer together than 30 per 1 inch.

**Taxes.**—\$35, payable before the end of the 7th year. If nevertheless in any case, by accident, mistake or inadvertence, a patentee fails to pay the renewal fee within the prescribed time, he may apply to the Commissioner for an enlargement of the time for making that payment. Thereupon the Commissioner shall, if satisfied that the failure has arisen from any of the above-mentioned causes, on receipt of the prescribed fee for enlargement, of for a period not exceeding three months not more than two pounds and a proportionate fee for each additional month not exceeding in all the period of a year and the sum of eight pounds, enlarge the time accordingly.

**Working.**—It is not necessary to officially prove working, but anyone interested may within two years of the granting of the patent apply for a compulsory license, if he can prove the patent is not being worked for the benefit of the Commonwealth.

**Assignment.**—Preparing and recording assignment, \$25.

### TRADE MARKS.

**Duration.**—Fourteen years, renewable.

**Requirements.**—Form of application B; appointment of agent; seven facsimiles of the mark; and an electrotype not exceeding two inches square.

### COPYRIGHTS.

No law exists for the protection of copyrights.

### DESIGNS.

No law exists for the protection of designs.

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## AUSTRIA.

### PATENTS.

**Term.**—Fifteen years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Power of attorney; specification in duplicate in German; drawings in duplicate, one copy on bristol-board and one on tracing cloth. The bristol-board copy must be in good black ink, with no colors or washes. Any of these sizes is allowable: (a) 13x8 $\frac{1}{4}$  inches; (b) 13x16 $\frac{1}{2}$  inches; (c) 13x24 $\frac{3}{4}$  inches, including a margin of  $\frac{3}{4}$  of an inch all around and  $\frac{1}{4}$  inch blank inside margin at the top. The drawings must read upright on the sheet; that is, the 13 inches must always be the height.

**Taxes.**—Cost, including agency fees (from grant of patent); 2nd year, \$16; 3rd year, \$22; 4th year, \$25; 5th year, \$28; 6th year, \$34; 7th year, \$50; 8th year, \$55; 9th year, \$67; 10th year, \$75; 11th year, \$90; 12th year, \$120; 13th year, \$140; 14th year, \$170; 15th year, \$190.

Three months extension of time for tax payment, \$2.50.

**Working.**—Must be proved within three years from the grant of the patent, and then annually. Cost, including manufacturing expenses, \$55.

**Assignment.**—For preparing and recording assignments, including consular fee, \$18.

### TRADE MARKS.

**Duration.**—Ten years, renewable for like periods.

**Requirements.**—Certified copy of home registration, legalized by Austro-Hungarian Consul; power legalized; twelve facsimiles of the mark; two electrotypes; each trade mark must be registered in Vienna and Budapest.

### COPYRIGHTS.

The protection granted is for the life of the author and thirty years after his death. The prolongation of anonymous works is thirty years. Cost of the same is \$25.

### DESIGNS.

**What May Be Protected.**—The Imperial Decree of December 7, 1858, defines the words “design” and “model” by “every sample suitable to be adapted for the outward form of an industrial product” and adds that the outward form only, i. e., the optical effect, is protected, but no technical effect or intrinsic value whatsoever, and that imitations of independent arts objects do not come under this protection.

**Who May Register.**—Any person or persons. They are considered proprietors of the design or model until the contrary is proven.

**Registration** to be effected in Vienna and Budapest; identical samples must be deposited in Austria and Hungary; they may be deposited open or under sealed cover; sealed covers are opened upon expiration of the first year. Every single design and model must be registered and fees paid separately. No reduction in Government fees for series or sets.

**Requirement.**—Power of attorney signed and duly legalized by an Austro-Hungarian Consul; two identical samples or models, or two photographs or drawings clearly illustrating the form or design to be protected; several samples with regard to different colors of the same model may be claimed as one.

**Duration of Protection.**—Three years after date of registration; this term cannot be extended.

## BAHAMA ISLANDS.

### PATENTS.

**Term.**—Seven years, renewable for further period of seven years and again for like period, or in all for twenty-one years.

**Applicant.**—Inventor or importer.

**Requirements.**—Power of attorney; petition; declaration, legalized by the British Consul; four copies of the specification; and drawings in quadruplicate, in black ink, on cloth or bristol-board of any convenient size.

**Taxes.**—Cost, including agency fees, for seven years, \$60; for fourteen years, \$110.

**Working.**—Within three years after filing of application, \$50.

**Assignment.**—Preparing and recording, including consular fee, \$50.

### TRADE MARKS.

Trade marks are protected under ordinance of 1889, but there is no provision for registration, and it is usual in order to establish evidence of ownership, and to warn infringers, to advertise the mark in local papers.

### COPYRIGHTS.

No law exists for the protection of copyrights.

### DESIGNS.

There is no law for the protection of designs.

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## BARBADOS.

### PATENTS.

**Term.**—Twenty-one years.

**Applicant.**—Inventor or first importer.

**Requirements.**—Power of attorney; declaration; specification in duplicate; and drawings in duplicate on cloth.

**Taxes.**—Cost, including agency fees, at the end of the 7th year, \$60; at the second renewal for seven years, \$110.

**Working.**—Within three years from date of patent, \$50.

**Assignment.**—Preparing and recording assignment, including consular fee, \$40.

**TRADE MARKS.**

**Duration.**—Fourteen years; renewable.

**Requirements.**—Power of attorney; eight facsimiles of the mark; electrotype or wood cut.

**COPYRIGHTS.**

No law exists for the protection of copyrights.

**DESIGNS.**

No law exists for the protection of designs.

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**BASUTOLAND.****PATENTS.**

**Applicant.**—Owners of Cape Colony patents, by paying colonial fees, receive a patent.

**Requirements.**—Copy of Cape Colony patent is required.

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**BELGIUM.****PATENTS.**

**Term.**—Twenty years, but limited by earlier foreign patent.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Power of attorney; specification in duplicate in French; drawings in duplicate, on cloth, size, 34 cm.—about  $13\frac{3}{8}$  inches—in height, by 21 to 22 cm.—about  $8\frac{5}{8}$  inches—in width, with a blank margin of 4 to 5 cm.—about  $1\frac{7}{8}$  inches. This size may be doubled or trebled, but the sheet must retain the same proportions. Drawings must be in black ink, and on the metrical system. Note: The size generally used for drawings for this country is the second size, viz.:  $13\frac{3}{8} \times 17\frac{1}{4}$  inches, as this size admits of the drawings being kept larger than could be used if made on the smaller size sheets.

**Taxes.**—Yearly from the date of application; cost, including agency fees, 2nd year, \$7.50; 3rd year, \$9.50; and so on, adding \$2 per year; one month grace is given without extra payment or six months' grace with a fine of \$2.

**Working.**—Must be proved within one year of commencement of working elsewhere, and then annually; cost, \$15.

**Assignment.**—Preparing and recording assignment, including consular fee, \$24.

**TRADE MARKS.**

**Duration.**—Forever.

**Requirements.**—Power of attorney; four facsimiles of mark; and one electrotype.

**COPYRIGHTS.**

Registration of a copyright is not necessary. Unauthorized reprint is submitted for arbitration.

**DESIGNS.**

**Duration.**—One, three or five years.

**Requirements.**—Power of attorney; copy of a specimen of the design or model; drawings in duplicate on tracing cloth; photographs are also accepted. Cost, for one year, \$15; for five years, \$25.

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**BERMUDA ISLANDS.****PATENTS.**

**Term.**—Fourteen years.

**Applicant.**—Inventor, assignee or first importer.

**Requirements.**—Application with declaration legalized by British Consul; specification in duplicate; drawings in duplicate; power of attorney signed by applicant and two witnesses.

**Taxes.**—None.

**Working.**—There are no requirements.

**Assignment.**—Preparing and recording assignment, \$40.

**TRADE MARKS.**

**Duration.**—Fourteen years; renewable.

**Requirements.**—Power of attorney; eight copies of the mark; electrotype or wood cut.

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**BOLIVIA.****PATENTS.**

**Term.**—Three, six or ten years.

**Applicant.**—The inventor or his assignee (assignment must be produced).

**Requirements.**—Legalized power of attorney; specification in duplicate; drawings in duplicate.

**Taxes.**—None.

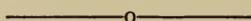
**Working.**—The term of working is one year from date of granting; to guarantee this working the patentee must deposit in the National Bank of Bolivia a sum of 100, 200 or 300 Bolivianas, following whether the patent is granted for three, six or ten years. This deposit will be returned upon the proof of working.

**Assignment.**—Preparing and recording, including consular fee, \$50.

#### TRADE MARKS.

**Duration.**—Ten years, renewable, subject to annual tax.

**Requirements.**—Power of attorney, legalized by the Bolivian Consul; six facsimiles of the mark.



### BRAZIL.

#### PATENTS.

**Term.**—Fifteen years.

**Applicant.**—The inventor or his assignee.

**Requirements.**—Legalized power of attorney; specification in duplicate; drawings in triplicate; on cloth, size 10x15 inches. The drawings should be made on a metrical scale; each sheet of paper bearing number of order, if there be several. When the application is for improvements upon an invention already patented in Brazil, the drawings should indicate with the same ink, in dotted lines, the modifications made in the original invention.

**Taxes.**—Cost, including agency fees (from grant of patent): 2d year, \$25; 3d year, \$27; 4th year, \$30; 5th year, \$35; 6th year, \$37; 7th year, \$40; 8th year, \$45; 9th year, \$52; 10th year, \$65; 11th year, \$70; 12th year, \$75; 13th year, \$80; 14th year, \$85; 15th year, \$90. Extension during the year is due, but this liberal measure can be repealed by simple ordinance of the minister.

**Working.**—Must be proved within three years from date of patent and annually thereafter; cost, \$75.

**Assignment.**—Preparing and recording, including consular fee, \$30.

#### TRADE MARKS.

**Duration.**—Fifteen years; renewable.

**Requirements.**—Certified copy of home registration legalized by the Brazilian Consul; legalized power of attorney; eleven facsimiles of the mark.

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## BRITISH EAST AFRICA.

### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Application; power of attorney; seven copies of the specification and seven copies of the drawings.

**Taxes.**—Cost, including agency fees, before the expiration of the 4th year, \$40; before the expiration of the 7th year, \$80.

**Working.**—There are no requirements.

**Assignment.**—Preparing and recording assignment, \$50.

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## BRITISH GUIANA.

### PATENTS.

**Term.**—Fourteen years, limited by earlier foreign patent.

**Applicant.**—The inventor or his assignee.

**Requirements.**—Power of attorney; petition in duplicate legalized by the British Consul; specification in duplicate; drawings in duplicate.

**Taxes.**—Cost, including agency fees, before the end of the 7th year, \$110.

**Working.**—There is no official requirement as to working of the invention in the Colony.

**Assignment.**—Preparing and recording, including consular fee, \$30.

### TRADE MARKS.

**Duration.**—Unlimited.

**Requirements.**—Power of attorney, legalized by British Consul; declaration; five specimens and one electrotype.

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## BRITISH NEW GUINEA.

## PATENTS.

**Term.**—Fourteen years.

**Applicant.**—The inventor, his assignee or communicator.

**Requirements.**—Statement of address and appointment of agent, application form; specification in duplicate; drawings in duplicate.

**Taxes.**—Cost, including agency fees: Before the end of the 4th year, \$30; 8th year, \$60; extension of time, renewal fee for one month, \$3; two months, \$4; three months, \$6. Patent to be forwarded for indorsement of payments

**Working.**—There are no conditions.

**Assignment.**—Preparing and recording assignment, \$25.

## TRADE MARKS.

**Duration.**—Fourteen years.

**Requirements.**—Power of attorney; six facsimiles of the mark; electrolytype or wood cut.

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## BRITISH NORTH BORNEO.

## PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor or his assignee, or the holder of a British patent.

**Requirements.**—Petition; specification in duplicate; declaration; power of attorney; drawings and copy of British patent, if any exists.

**Taxes.**—None.

**Working.**—There are no requirements.

**Assignment.**—Preparing and recording, \$25.

The Straits Settlements Ordinance has been adopted in British North Borneo and Laubuan. Separate applications are required for each of these possessions.

While there are no legal provisions in Sarawak relating to inventions the Resident advises us that owners of Patent Rights would certainly receive protection in the local Courts against infringers.

**TRADE MARKS.**

Marks may be registered in British North Borneo, if previously registered in Great Britain.

**Requirements.**—Power of attorney; six facsimiles of mark; one electrotype.

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**BRITISH HONDURAS.****PATENTS.**

**Term.**—Fourteen years, limited by earlier foreign patent.

**Applicant.**—The inventor or importer.

**Requirements.**—Power of attorney; affidavit or declaration legalized; specification in duplicate; drawings accompanying provisional specifications shall be made upon cloth or paper, size 13 inches in length by 8 inches in breadth, or 13 inches in breadth by 16 inches in length, leaving a margin of 1 inch on all sides. All drawings accompanying specifications in pursuance of the conditions of letters patent and complete specifications with petitions for the grant of letters patent: such drawings shall be made upon paper or cloth, size  $21\frac{1}{2}$  inches in length by  $14\frac{3}{4}$  inches in breadth, or  $21\frac{1}{2}$  inches in breadth by  $29\frac{1}{2}$  inches in length, leaving a margin of  $1\frac{1}{2}$  inches on all sides. Note: It is recommended that patentees make their elevation drawings to the scale of 1 inch to a foot.

**Taxes.**—Cost, including agency fees, before the 3d year, \$60; before the 7th year, \$120.

**Working.**—There is no legal requirement for working nor is importation forbidden.

**Assignment.**—Preparing and recording, including consular fee, \$50.

**TRADE MARKS.**

Under the Merchandise Ordinance of 1888 the counterfeiting of trade marks is made a penal offense. There being no department for registration, in order to secure proof of ownership and to warn the public against infringement, it is usual to advertise the mark in the official and other journals of the colony.

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## BULGARIA.

### PATENTS.

No law exists for the protection of patents.

### TRADE MARKS.

**Duration.**—Ten years, renewable for like periods.

**Requirements.**—Power legalized; four facsimiles of the mark.

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## CANADA.

### PATENTS.

**Term.**—Eighteen years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Power of attorney; petition; specification in duplicate; claims in triplicate; oath; drawings in triplicate, two on tracing cloth and one on bristol-board, size 8x13 inches. Drawings must be clear, sharp, well defined, not too fine. Brush shading, tinting, and imitation surface graining should not be used. Shade lines may sometimes be used with good effect, but heavy shadows, where they would obscure lines or letters of reference, should be avoided. In fine shading, results should be attained with as few lines as possible, and the shading of convex and concave surfaces may be dispensed with when the invention is otherwise well illustrated. Section lines should be as open as the case will admit. The drawings on cloth only must be signed by the inventor, through his attorney, in the presence of two witnesses, and dated to correspond with the date of the application papers. Bristol-board drawings should be sent to the office flat, or on a roller. The following should be placed at the bottom of each of the cloth copies:

“Certified to be the drawing referred to in the specification hereunto annexed.

..... 190...”

**Taxes.**—At the end of the 6th and 12th years, \$25.

**Working.**—Within two years from the grant of the patent, \$25.

**Importation.**—After twelve months have elapsed from the date of the patent the patentee may not import the invention under penalty of forfeiture. Twelve months' extension of this term may be granted on cause shown, \$15.

**Assignment.**—Preparing and recording, \$5.00.

### TRADE MARKS.

**Duration.**—Specific trade mark, twenty-five years; general trade mark, forever.

**Requirements.**—Declaration in duplicate; description of mark, stating whether it is intended for use as a general or specific one; three copies of mark.

### DESIGNS.

In Canada, every Design, in order to be protected, must be registered before publication, "and after registration the name of the proprietor, *who shall be a resident of Canada*, shall appear upon the article to which his design applies; if the manufacture is a woven fabric, by being marked at one end thereof, together with the letters 'Rd', and if the manufacture is any other substance, the letters 'Rd', with the year of registration, shall be marked at the edge or any convenient part thereof." In practice "Rd" and the year of registration should appear on all articles of manufacture.

Certain penalties are also provided for the fraudulent marking, as registered, of any design which is not so registered.

The mark may be put upon the manufacture by making it on the article itself, or by attaching thereto a label containing the proper marks. **TO OBTAIN THE PROTECTION OF THE ACT, THE SUBJECT MATTER TO WHICH THE DESIGN IS APPLIED MUST BE MANUFACTURED IN CANADA.**

### COPYRIGHTS.

Copyrights may be registered in Canada by a citizen of any country which has an international copyright treaty with the United Kingdom of Great Britain and Ireland and by a citizen of the United States who has previously registered in Stationers' Hall, London, England. Their duration is for 28 years, extensible for 14 years by the author, if living, or his widow or children. The application must be accompanied by three bound or mounted copies of the work, which must be printed in Canada.

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## CAPE COLONY.

### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor.

**Requirements.**—Legalized power of attorney; petition; specification in duplicate; drawings in duplicate.

**Taxes.**—Before the expiration of the 3d year, \$60; before the expiration of the 7th year, \$110. Letters patent required for endorsement.

**Working.**—There are no conditions.

**Assignment.**—Preparing and recording, \$30.

### TRADE MARKS.

**Duration.**—Fourteen years, renewable for similar periods.

**Requirements.**—Application; declaration legalized by British Consul; power of attorney; six copies of mark; one electrotype.

### DESIGNS.

**Duration.**—Five years.

**Requirements.**—Three drawings, photographs or tracings on paper; cost, \$40.

**CENTRAL AFRICA PROTECTORATE.**

### PATENTS.

The British Patent Law has been adopted in its entirety in this Protectorate.

In the case of a Patent granted in England registration is effected by lodging with the Registrar a certificate from the Comptroller-General that such patent has been duly sealed and issued.

### TRADE MARKS.

Trade Marks are protected under the Law of October 15, 1889. There is no provision made for Registration.

**CEYLON.****PATENTS.**

**Term.**—Fourteen years.

**Applicant.**—Inventor.

**Requirements.**—Petition in duplicate, legalized by the British Consul; power of attorney; copy of the British patent; specification in duplicate; drawings in duplicate, on bristol-board 13 by 8 inches, leaving a margin of  $\frac{1}{2}$  inch all around.

**Taxes.**—Cost, including agency fees, before the expiration of the 4th, 5th, 6th, 7th and 8th years, \$30; before the expiration of the 9th, 10th, 11th, 12th and 13th years, \$60; extension of time can be had: one month, \$5; two months, \$12; three months, \$20.

**Working.**—None.

**Assignment.**—Preparing and recording, \$30.

**TRADE MARKS.**

**Duration.**—Fourteen years, renewable.

**Requirements.**—Power of attorney; six copies of mark, and one electro or wood cut.

**CHANNEL ISLANDS.**

(Jersey and Guernsey.)

**PATENTS.**

The British patent does not cover the Channel Islands, but protection may be secured for inventions in Jersey and Guernsey by registering a certified copy of the British patent in the rolls of the Royal Court.

**TRADE MARKS.**

Trade marks may be protected in Jersey and Guernsey by entering a certificate of registration in Great Britain in the rolls of the Royal Courts.

**CHILE.****PATENTS.**

**Term.**—Ten years.

**Applicant.**—The inventor or his assignee.

**Requirements.**—Legalized power of attorney; specification in duplicate; drawings in duplicate; certified copy of first foreign patent legalized by Chilian Consul.

**Taxes.**—None.

**Working.**—Must be effected within one year from date of issue, but extension can be had. Cost of extension for each year is \$40.

**Assignment.**—Preparing and recording assignment, \$40.

#### TRADE MARKS.

**Duration.**—Ten years, renewable for like periods.

**Requirements.**—Power of attorney legalized by Chilian Consul; seven copies of mark.

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### CHINA.

#### PATENTS.

No law exists for the protection of patents.

#### TRADE MARKS.

**Duration.**—Twenty years.

**Requirements.**—Power of attorney signed by the owner of the mark, before a Notary Public; certified copy of home registration; additional copy of same uncertified; two electrotypes of the mark, which must not exceed three inches in width or four inches in length; twelve facsimiles of the mark; and a Chinese translation must accompany each document filed.

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### COLOMBIA.

#### PATENTS.

**Term.**—Five, ten or fifteen years.

**Applicant.**—The inventor or his assignee (assignment must be produced).

**Requirements.**—Legalized power of attorney; specification in duplicate; drawings in duplicate.

**Taxes.**—None.

**Working.**—Must be proved within one year from date of patent; cost, \$100.

**Assignment.**—Preparing and recording, including consular fee, \$50.

#### TRADE MARKS.

**Duration.**—Unlimited.

**Requirements.**—Power of attorney; legalized by Colombian Consul; ten copies of mark and one electrotype.

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### CONGO FREE STATE.

#### PATENTS.

**Term.**—Twenty years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Power of attorney legalized by the Belgian Consul; specification and drawings in duplicate prepared the same as for Belgium.

**Taxes.**—None.

**Working.**—None.

**Assignment.**—Preparing and recording, \$20.

#### TRADE MARKS.

**Duration.**—Forever.

**Requirements.**—Power of attorney; five facsimiles of the mark, and one electrotype.

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### COSTA RICA.

#### PATENTS.

**Term.**—Twenty years, limited by earlier foreign patent.

**Applicant.**—The inventor or his assignee (assignment must be produced).

**Requirements.**—Legalized power of attorney; drawings in duplicate; specification in duplicate.

**Taxes.**—None.

**Working.**—Within two years from date of patent; cost \$50.

**Assignment.**—Preparing and recording, including consular fee, \$40.

#### TRADE MARKS.

**Duration.**—Fifteen years, renewable for ten years and so on every ten years.

**Requirements.**—Power of attorney legalized by Costa Rican Consul; eight copies of the mark, and one electrotype.

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## CUBA.

### PATENTS.

**Term.**—Seventeen years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Legalized power of attorney; drawings in triplicate; United States size, one on bristol-board and two on transparent tracing cloth; specification in duplicate.

**Taxes.**—None.

**Working.**—Within one year and one day from date of grant; cost of extension of time for performing working, \$25.

**Assignment.**—Preparing and recording, \$35.

### TRADE MARKS.

**Duration.**—Fifteen years, renewable.

**Requirements.**—Legalized power of attorney; certified copy of United States trade-mark legalized by Cuban Minister or Consul; and twelve facsimiles of the mark.

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## CURACAO.

(Dutch West Indies.)

### PATENTS.

No law exists for the protection of patents.

### TRADE MARKS.

**Duration.**—Twenty years, and can be extended.

**Requirements.**—Power of attorney and six facsimiles of the mark. The publication of the application must be inserted in the Official Journal of Curacao.

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## CYPRUS.

### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Petition; power of attorney; specification in duplicate; drawings in duplicate, British size; certified copy of the British patent. The Cyprus patent expires simultaneously with the British patent.

**Taxes.**—None.

**Working.**—There are no requirements.

**Assignment.**—Preparing and recording assignment, \$40.

### TRADE MARKS.

Trade marks are protected by the Merchandise Marks Law No. 12, of 1892. No provision is made for registration, but it is usual to advertise the mark locally, as proof of ownership and warning against infringers.

## DANISH WEST INDIES.

### PATENTS.

The law in this colony resembles in all substantial effects the law of Denmark.

### TRADE MARKS.

No law exists

## DENMARK.

### PATENTS.

**Term.**—Fifteen years.

**Applicant.**—Inventor or his assignee. (Assignments must be produced.)

**Requirements.**—Power of attorney; specification in duplicate in Danish; Drawings in duplicate, one copy on bristol-board, and one on cloth. The bristol-board copy must be in good black ink, with no colors or washes. Either of these sizes is allowable: (a) 13x8 $\frac{1}{4}$  inches; (b) 13x16 $\frac{1}{2}$  inches, including a margin of  $\frac{1}{2}$  of an inch all around, and 1 $\frac{1}{4}$  inches blank inside margin at the top. Signatures of the applicant must be placed in the lower right-hand corner. The drawings must read upright on the sheet; that is, the 13 inch way must always be the height. All writing

must be inside the margin. Drawings must not be folded or rolled, but must be sent in smooth, flat shape.

**Taxes.**—Cost, including agency fees (from grant of patent): 1st, 2nd and 3d years, \$10; 4th, 5th and 6th years, \$17; 7th, 8th and 9th years, \$30; 10th, 11th and 12th years, \$82; 13th, 14th and 15th years, \$90. For extension of three months add one-fifth of renewal fee.

**Working.**—Within three years of issue of patent and thereafter yearly. Cost, \$30.

**Assignment.**—Preparing and recording including Consular fee, \$20.

#### TRADE MARKS.

**Duration.**—Ten years, renewable; it expires with the home registration.

**Requirements.**—Certified copy of the home registration legalized by the Danish Consul; legalized power of attorney; five copies of mark; two electrotypes or wood cut.

#### COPYRIGHTS.

Authors are protected without any further formalities.

#### DESIGNS.

**Term.**—Three years. Can be renewed up to 15 years.

**Requirements.**—Power of attorney; number of patterns for which protection is wanted. Drawings.

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### DUTCH EAST INDIES.

#### PATENTS.

No law exists.

#### TRADE MARKS.

**Duration.**—Twenty years, and can be extended.

**Requirements.**—Power of attorney; six specimens of the mark; one electro.

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### EAST AFRICA PROTECTORATE.

#### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Petition with an application, signed by the applicant; six copies of the specification and six copies of the drawings upon any kind of paper or tracing cloth; copy of the British patent; power of attorney signed by two witnesses, whose full address must be given.

**Taxes.**—From date of filing; before the expiration of the 4th year, \$350; before the expiration of the 8th year, \$700.

**Working.**—There are no requirements.

**Assignment.**—Preparing and recording assignment, \$50.

#### TRADE MARKS.

No law exists.

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### ECUADOR.

#### PATENTS.

**Term.**—Ten years.

**Applicant.**—The inventor or his assignee (assignment must be produced).

**Requirements.**—Legalized power of attorney; specification in duplicate; drawings in duplicate.

**Taxes.**—None.

**Working.**—None.

**Assignment.**—Preparing and recording, including consular fee, \$50.

#### TRADE MARKS.

**Duration.**—Indefinite.

**Requirements.**—Legalized power of attorney; ten copies of the mark.

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### EGYPT.

#### PATENTS.

Patents may be registered in the courts at Cairo, Alexandria and Mansourah.

**Requirements.**—Certified copy of the home patent; legalized power of attorney.

#### TRADE MARKS.

**Duration.**—Ten years.

**Requirements.**—Power of attorney (no legalization required); certified copy of original registration of the mark, and specimen of mark. Separate registration is necessary for Sudan.

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## FALKLAND ISLANDS.

### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Petition; power of attorney; specification and drawings in duplicate, British size; certified copy of the British patent. The Falkland Island patent expires simultaneously with the British patent.

**Taxes.**—None.

**Working.**—There are no requirements.

**Assignment.**—Preparing and recording assignment, \$40.

### TRADE MARKS.

**Duration.**—Fourteen years, and expires with registration of the British trade mark.

**Requirements.**—Power of attorney and six copies of the mark.

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## FIJI ISLANDS.

### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—The inventor or his assignee.

**Requirements.**—Petition; specification in duplicate; drawings in duplicate; and declaration.

**Taxes.**—There are no annuities.

**Working.**—Not necessary.

**Assignment.**—Preparing and recording assignment, \$25.

### TRADE MARKS.

**Duration.**—Seven years, renewable.

**Requirements.**—Power of attorney; seven copies of mark and two electrotypes.

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## FINLAND.

### PATENTS.

**Term.**—Fifteen years.

**Applicant.**—Inventor or assignee. (Assignment must be produced.)

**Requirements.**—Legalized power of attorney; specification in duplicate in Swedish or Finnish; drawings in duplicate.

**Taxes.**—Cost, including agency fees, from grant of patent; 2nd and 3d years, \$10; 4th to 6th years, \$12; 7th to 9th years, \$14; 10th to 12th years, \$16; 13th to 15th years, \$18; three months' extension by adding one-fifth of the fee.

**Working.**—Within three years of date of patent and not interrupted for more than one year. Cost, \$30.

**Assignment.**—Preparing and recording, including Consular fee, \$25.

### TRADE MARKS.

**Duration.**—Ten years, renewable.

**Requirements.**—Certified copy of home registration, not to be legalized; legalized power of attorney; six copies of mark; two electrotypes or wood cut.

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## FRANCE.

### PATENTS.

**Term.**—Fifteen years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Power of attorney; specification in duplicate in French and drawings in duplicate, one on cloth and one on bristol-board or other strong white paper, having the following sizes: 33 centimeters  $\times$  21 centimeters (12 inches .992  $\times$  8 inches .268), or 33 centimeters  $\times$  42 centimeters (12 inches .992  $\times$  16 inches .536) with an inside border line of 2 centimeters (0 inches .787) in such manner that the drawing shall be comprised within a border line of 29 centimeters by 17 centimeters (11 inches .417  $\times$  6 inches .693), or 29 centimeters  $\times$  38 centimeters (11 inches .417  $\times$  14 inches .961). This border line shall be constituted by a single line having a thickness of about  $\frac{1}{2}$  millimeter (0 inches .02). The figures should be so arranged

on the sheets that they will read upright; that is, the 13-inch way must be the height, and there must be a clear space of 1 cm. (.39 inches), between figures. In case it should be impossible to illustrate a patented article by means of figures enclosed within a border line of  $29 \times 38$  centimeters (11 inches .417  $\times$  14 inches .961) the inventor shall be at liberty to subdivide one figure into several portions of which each shall be drawn upon a sheet having the above indicated size. The section line of figures shall be indicated by letters of reference. The figures shall be numbered without interruption from the first to the last, by means of Arabic or Roman numerals. If the sheets be numbered, the numbers shall appear outside of the border line. The original drawing shall be executed in ink, with regular and perfectly black lines, upon bristol-board or other white paper, thick and smooth, allowing of reproduction by photographic process. No tint, shades, or wash shall appear therein; if necessary, these shall be replaced by regular and properly spaced cross lines. The drawings shall be made to a sufficient scale, without exaggeration, so that it shall be possible to ascertain exactly the article to be patented from a reproduction reduced to two-thirds the size of the drawings. The scale indicated shall be according to the metrical system. The drawings shall not contain any descriptive matter or indication other than the numbers of the figures and the letters (capital and small), or numerals of reference, *the height of which shall be from 3 to 8 millimeters (0 inches .118 to 0 inches .315)*. Any descriptive matter considered as indispensable by inventors for the comprehension of their drawings shall be inserted by them in the body of their specification. The signature of the inventor or of his attorney shall be written outside the border lines. The drawings shall not be folded; they shall be handed in, at the time of filing, either flatwise, or rolled, so as to be free from folds or creases.

**Taxes.**—Yearly from date of filing. Cost, including agency fees, \$22.50 per annum. One month's grace, with a fine of \$1; two month's, \$2; three month's, with a fine of \$3.

**Working.**—Must be proved within two years from grant and every subsequent two years; cost, \$22.

**Assignment.**—The taxes for the remaining life of the patent have to be paid up before assignment can be recorded.

**TRADE MARKS.**

**Duration.**—Fifteen years, which may be extended for like periods.

**Requirements.**—Legalized power of attorney; four copies of the mark; one electrotype.

**COPYRIGHTS.**

**Duration.**—Life of the author, with prolongation of fifty years after his death.

**Requirements.**—Power of attorney and two copies of the literary work in original language.

**DESIGNS.**

**Duration.**—One, three or five years.

**Requirements.**—Power of attorney, legalized by the French Consul; copy of specimen of the design or model; drawings in duplicate on tracing cloth; photographs are also accepted. Cost, for one year, \$15; for five years, \$25.

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**GERMANY.****PATENTS.**

**Term.**—Fifteen years.

**Applicant.**—Whoever first applies for a patent is entitled to the grant, but the patent will be void if it is shown that the invention was taken without permission from the papers or apparatus of another person.

**Requirements.**—Power of attorney; specification in duplicate in German; drawings in duplicate, one copy on bristol-board and one on cloth. The bristol-board copy must be in good black ink, with no colors or washes. The standard size of the bristol-board drawings is a height of 13 inches, by a width of 8½, or 16½ inches. The tracings must be 13 inches high, but may have any width. A blank space 3 cms. each must be left at the right and the left-hand side of the *tracings*, and the figures on the *latter* must be upright; that is to say, they must have the *width* of the tracing for their basis. \* \* \* *Marginal lines* are not demanded in the new rules, neither for the card-boards, nor for the trac-

ings. \* \* \* *Letters of reference* must be inserted to such extent only as is *absolutely* necessary.

**Taxes.**—Yearly from date of application. Cost, including agency fees: 2d year, \$14.50; 3d year, \$27; and so on, adding \$12.50 yearly. Six weeks' grace without fine; a further six weeks adding a fine of \$2.50.

**Working.**—Must be proved before the expiration of three years from date of publication. Cost, \$28.

**Assignment.**—Preparing and recording, including consular fee, \$16.

#### TRADE MARKS.

**Duration.**—Ten years, renewable.

**Requirements.**—Certified copy of home registration legalized by the German Consul; power of attorney; five copies of mark and one electrotype.

#### COPYRIGHTS.

Copyright protection is granted for works printed in the United States without registration.

Duration of the copyright is the life of the author and thirty years after his death. Translation of dramatical works must be registered at Leipzig.

**Requirements.**—Power of attorney, and five copies of the work, cost, \$25.

#### DESIGNS.

**Duration.**—Three years; can be extended to six years.

**Requirements.**—Power of attorney; petition; sample of the design; drawings in duplicate on linen cloth. Cost, including taxes, for three years, \$18.

## GIBRALTAR.

#### PATENTS.

**Term.**—Fourteen years; patent elapses with a prior British patent.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Petition; declaration; power of attorney; specification and drawings in duplicate; certified copy of British patent.

**Taxes.**—None.

**Working.**—None.

**Assignment.**—Preparing and recording assignment, \$30.

#### TRADE MARKS.

There is no registration act in protection of trade marks in this colony, but action will lie for infringement and criminal proceedings can be taken for forgery.

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### GOLD COAST COLONY.

#### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor, assignee or communicator.

**Requirements.**—Petition; declaration; power of attorney; specification in duplicate and drawings in duplicate.

**Taxes.**—5th, 6th and 7th years, \$60 each; 8th and 9th years, \$85 for each; 10th, 11th, 12th and 13th years, \$110 for each.

**Working.**—Grant of license compulsory.

**Assignment.**—Preparing and recording assignment, \$30.

#### TRADE MARKS.

**Duration.**—Fourteen years.

**Requirements.**—Power of attorney; six copies of the mark, electrotype or wood cut.

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### GREAT BRITAIN.

#### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor, introducer or communicator.

**Requirements.**—Power of attorney (but not required when application is filed as communication); specification in duplicate; drawings in duplicate, on pure, white, Wattman's hot-pressed, rolled, or calendered drawing-paper, of smooth surface and good quality. Size of sheets, 13 inches at the sides by 8 inches at the top and bottom, or 13 inches at the sides by 16 inches at the top and bottom, including a margin of  $\frac{1}{2}$  inch on all sides (the smaller

size preferred). If there are more figures than can be shown on any of the smaller sized sheets, two or more of them should be used in preference to employing the larger size. When an exceptionally large drawing is required, it should be continued on subsequent sheets. There is no limit to the number of sheets that may be sent in. The scale adopted should be large enough to show clearly wherein the invention consists, and only so much of the apparatus, machine, etc., need be shown as effects this purpose. When scale is shown it should be denoted by a drawn scale, not by words. The figures should be so arranged on the sheets so that they will read upright; that is, the 13-inch way should always be the height. *Reference figures and letters* must be bold, distinct, and not less than  $\frac{1}{8}$  of an inch in height. In cases of complicated drawings, the reference letters must be shown outside the figures and connected with the parts referred to by a fine line. The same letters should be used in different views of the same parts. Drawings should be in good black ink, and the same strength and color of fine shade lines maintained throughout. No written description of invention should appear on the drawings.

**Taxes.**—Before expiration of 4th year of patent and yearly thereafter. Cost, including agency fees, \$27.50; increasing \$5 yearly.

**Working.**—Grant of license compulsory.

**Assignment.**—Preparing and recording assignment cost, \$12.

### TRADE MARKS.

**Duration.**—Fourteen years, renewable.

**Requirements.**—Power of attorney; six copies of the mark; electrotype or wood cut. Description of goods to which mark is applied, and if mark has been used prior to 13th August, 1875, date of first use.

### COPYRIGHTS.

Registration must be made at the Stationer's Hall in London.

**Requirements.**—Six copies of the work and six forms must be signed, cost, \$20. A British copyright covers all the British colonies.

### DESIGNS.

**Duration.**—Five years.

**Requirements.**—Authorization; three copies of the design on bristol-board or cloth; cost, \$20.

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## GREECE.

### PATENTS.

No law exists for protection of patents.

### TRADE MARKS.

**Duration.**—Ten years, renewable, will expire with the home registration.

**Requirements.**—Certified copy of home registration, legalized by Greek Consul; legalized power; four copies of mark and a metal typographic block.

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## GRENADA.

### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Application with declaration signed by applicant, no legalization; specification in duplicate; drawings in duplicate, same as for Great Britain; authorization signed by applicant, no legalization required.

**Taxes.**—\$18 before the expiration of the 4th year; \$23 before the expiration of the 5th year; \$28 before the expiration of the 6th year; and so on, adding \$5 each year. Fine for one month's extension, \$5; two months, \$15; and three months, \$25.

**Working.**—There are no requirements.

**Assignment.**—Preparing and recording assignment, \$40.

### TRADE MARKS.

**Duration.**—Fourteen years, renewable.

**Requirements.**—Power of attorney; eight copies of the mark; electrotype or wood cut.

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## GUATEMALA.

### PATENTS.

**Term.**—Patents are granted for a term fixed between five and fifteen years.

**Applicant.**—Natives only.

**Requirements.**—Power of attorney legalized by the Guatemalan Consul; specification and drawings in duplicate.

**Taxes.**—Annually, cost \$35.

**Working.**—Within one year and then annually.

**Assignment.**—Preparing and recording assignment, \$50.

### TRADE MARKS.

**Duration.**—Ten years; renewable every ten years.

**Requirements.**—Legalized power of attorney; certified copy of original registered trade mark; ten copies of the mark.

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## HOLLAND.

### PATENTS.

New patent law has been promulgated but is not in force.

### TRADE MARKS.

**Duration.**—Twenty years, which may be extended for like periods.

**Requirements.**—Power of attorney; six copies of the mark and one electrotype.

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## HONDURAS.

### PATENTS.

**Term.**—Patents for twenty years are granted to natives; patents to foreign inventors are limited by earlier patents.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Legalized power of attorney; drawings in duplicate; specification in duplicate; and certified copy of original patent legalized by the consul of Honduras.

**Taxes.**—There is an annuity payable at the commencement of each year, ranging from \$10 to \$50, but it generally amounts to \$25.

**Working.**—There are no requirements.

**Assignment.**—Preparing and recording assignment, including consular legalization, \$70.

### TRADE MARKS.

**Duration.**—Indefinite.

**Requirements.**—Power of attorney legalized by consul of Honduras; ten copies of the mark; certified copy of original registered mark.

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## HONGKONG.

### PATENTS.

**Term.**—Letters patent are granted for inventions or a patent in Great Britain. They expire with the British patent.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Petition; specification; declaration; power of attorney; drawings in duplicate.

**Taxes.**—None.

**Working.**—There are no requirements.

**Assignment.**—Preparing and recording, \$35.

### TRADE MARKS.

**Duration.**—Unlimited.

**Requirements.**—Petition; declaration; power of attorney; and six copies of the mark.

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## HUNGARY.

### PATENTS.

**Term.**—Fifteen years.

**Applicant.**—The inventor or his assignee.

**Requirements.**—Legalized power of attorney; specification in duplicate in Hungarian; drawings in duplicate, one on bristol-board and one on tracing cloth, size  $8\frac{1}{4} \times 13$ , or  $16\frac{1}{2} \times 13$  inches.

**Taxes.**—Yearly from date of filing; cost, including agency fees: 2nd year, \$17; 3d year, \$19; 4th year, \$21; 5th year, \$23; 6th year, \$26; 7th year, \$30; 8th year, \$34; 9th year, \$38; 10th year, \$47; 11th year, \$62; 12th year, \$67; 13th year, \$77; 14th

year, \$92; 15th year, \$112. Thirty days' grace; further thirty days, \$5.

**Working.**—Within three years of grant and subsequently every year; cost, \$26.

**Assignment.**—Preparing and recording, including consular fee, \$18.

#### TRADE MARKS

The same regulations are in force in this country as in Austria. Americans must register in Austria and Hungary.

#### COPYRIGHTS.

Registration not necessary. Protection is granted for the life of the author and fifty years after his death. If we register, our charge is \$20.

#### DESIGNS.

The provisions are substantially the same as in Austria, and the cost the same. Americans must obtain protection in Austria and in Hungary simultaneously.

We are informed that no treaty exists between Hungary and the United States for the protection of design patents.

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## ICELAND.

#### PATENTS.

**Term.**—Same as the corresponding Danish patent. When no Danish patent exists the duration is from 5 to 10 years.

**Requirements.**—The same as for Denmark.

**Taxes.**—None.

**Working.**—Within three years after grant and annually thereafter.

**Assignment.**—Same as Denmark.

#### TRADE MARKS.

No law exists.

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## INDIA.

#### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Application; power of attorney; seven copies of specification; and drawings, eight copies of each sheet, on cloth, size  $13 \times 16$  inches, and must be neat and clear. Photographs will be accepted. The left-hand portion of each sheet of drawing, to the width of a half sheet of foolscap, that is, a width of 8 inches, must be left blank, so that when the sheets are opened out, the sheets which lie above them and contain the text of the application or specification will conceal no portion of the drawings. A clear margin of half an inch must be left round the portion of the sheet which is occupied by drawings.

**Taxes.**—Cost, including agency fees, before the expiration of the 4th, 5th, 6th, 7th and 8th years, \$30; before the 9th, 10th, 11th, 12th and 13th years, \$60; extension of time can be had; one month, \$5; two months, \$12; three months, \$20.

**Working.**—None.

**Assignment.**—Preparing and recording assignment, \$20.

### TRADE MARKS.

**Duration.**—Unlimited.

**Requirements.**—Power of attorney legalized by the British Consul; declaration and five copies of mark.

### DESIGNS.

**Duration.**—Five years.

**Requirements.**—Four copies of the design and a power of attorney; cost, \$35.

### COPYRIGHTS.

**Duration.**—The Indian Copyright Act XX, of 1847, enacts that the copyright shall endure for the natural life of the author, and for *seven* years after, dating from author's death, or should term of author's life from date of publication plus seven years not make 42 years, then copyright to count for 42 years from date of publication.

### INFORMATION AND DOCUMENTS REQUIRED.

- (a) Title of Book.
- (b) Name of the Publisher and Place of Publication.
- (c) Name and Place of abode of the Proprietor of the Copyright.

(d) *Date of First Publication*  
(e) Three copies of Book with a Power of Attorney *duly witnessed.*

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## ITALY.

### PATENTS.

**Term.**—Fifteen years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Legalized power of attorney; specification in duplicate in French or Italian; drawings in triplicate, two on cloth and one on bristol-board. The size of the sheets should not exceed 30 cen.—11 3/16 inches in width by 40 cen.—15 3/4 inches in height. A clear space or margin 5 cen.—1 7/8 inches should be left all around.

**Taxes.**—Cost, including agency fees, from date of filing; \$2 for each year of the term applied for (always apply for six years). Whatever is the length of the term the patent is subject to the following annual taxes: Each of the first three years, \$11; 4th, 5th and 6th years, \$16; 7th, 8th and 9th years, \$22; 10th, 11th and 12th years, \$27; 13th, 14th and 15th years, \$35 each year.

**Prolongation.**—The original patent and the last certificate of prolongation must be produced. No extension of time granted; cost, \$25.

**Working.**—Required within three years. One year patent must be worked thereafter annually and six year patent every two years; cost, \$25.

**Assignment.**—Preparing and recording, including consular fee, \$24.

### TRADE MARKS.

**Duration.**—Forever.

**Requirements.**—Certified copy of home registration legalized by the Italian Consul; legalized power of attorney; five copies of the mark and one metal typographic block.

### COPYRIGHTS.

**Duration.**—Eight years.

**Requirements.**—Power of attorney legalized by the Italian Consul; two copies of the work.

**DESIGNS.**

**Duration.**—Two years.

**Requirements.**—Power of attorney legalized by the Italian Consul; specification in duplicate; drawings in duplicate on tracing cloth; model or photograph of the design; certified home design legalized by the Italian Consul; cost, \$25.

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**JAMAICA.****PATENTS.**

**Term.**—Fourteen years.

**Applicant.**—Inventor.

**Requirements.**—Petition; declaration; power of attorney; specification in duplicate, legalized by the British Consul; drawings in duplicate.

**Taxes.**—None.

**Working.**—There are no requirements.

**Assignment.**—Preparing and recording, \$40.

**TRADE MARKS.**

**Duration.**—Fourteen years, renewable.

**Requirements.**—Power of attorney, legalized by British Consul. Where the mark is registered in Great Britain, a certificate to that effect will ensure its registration in Jamaica without necessity to advertise.

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**JAPAN.****PATENTS.**

**Term.**—Fifteen years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Power of attorney; certificate of nationality; specification; drawings, 6 copies of each sheet, on JAPANESE MENO, or a good quality of bond paper, in good black ink and not tinted. Figures must not occupy a space larger than 7.2  $\times$  4.6 suns—about 8½  $\times$  5½ inches. There must be left a blank margin on all sides, according to the following rules: i. e., at the top of the figure, 1 sun—about 1½ inches; at bottom, 0.8 of a sun—about 1 inch; on the left side, 0.3 of a sun—about 1/3

of an inch, and on the right side, 1.5 suns—about  $1\frac{7}{8}$  inches. Work must thus occupy a field of about  $8\frac{1}{2} \times 5\frac{1}{2}$  inches on a sheet about  $11 \times 8$  inches. On the lower part of the right or left side of the field shall be put only the names of the inventor and his agent, with the seal of the latter. As few sheets as possible must be used. The figures, with numerals and letters of reference, must be clear and strong. Each figure must have a number, and corresponding parts must have corresponding references. No reference marks should be put down where shade lines are drawn, and, if such be necessary, the part must not be shaded. When necessary the reference marks shall be drawn apart and fine dotted lead lines connect the mark and the figure. Sections should be shown by parallel oblique lines about 1.03 sun, i. e., about 27 or 28 lines to the inch, and different sections of the same figure must be shown by different direction of lines. All shading must be done by lines, and no cast shade shall be made, if possible.

**Taxes.**—Cost, including agency fees from date of issue: 2nd year, \$10, increasing \$5 every three years; sixty days' grace allowed.

**Working.**—Within three years from date of issue and every three years thereafter; cost, \$25.

**Assignment.**—Preparing and recording assignment, \$25.

#### TRADE MARKS.

**Duration.**—Twenty years, renewable.

**Requirements.**—Power of attorney; certificate of nationality; ten copies of mark and one electrotype; certified copy of original registered trade mark.

#### DESIGNS.

**Duration.**—Three, five, seven or ten years.

**Requirements.**—Power of attorney; certificate of nationality; drawings. Cost, \$40.

#### UTILITY MODEL.

#### REGISTRATION.

(Small Patent.)

**Term.**—Three years, and may be extended for another three years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—A power of attorney; certificate of nationality; two copies of the description; three sets of drawings made in accordance with the rules for a regular patent.

**Taxes.**—Renewal at the end of three years, \$45.

The protection offered under this registration is similar in all respects to the Gebrauchsmuster in Germany.

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## KOREA.

We take the following from the United States Consular report for November, 1904:

“Under date of September 10, 1904, United States Minister Allen, Seoul, Korea, reports: ‘I was visited in July by the agent of the British and American Tobacco Company, who desired to have the company’s trade marks or labels registered in Korea. There being no system of registration of trade marks in this country, I secured the issuance of a proclamation forbidding the counterfeiting of the labels of this company or the use of their boxes for containing spurious goods.’

“The minister adds that the Japanese Minister to Korea has stated that his government will protect in Korea trade marks that are registered in Japan.”

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## LAGOS.

### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—The inventor or his assignee.

**Requirements.**—Application with declaration signed by applicant, no legalization; specification in duplicate on strong white paper, 8 X 13, no signature necessary; drawings in duplicate, precisely the same as for Great Britain; power of attorney signed by applicant and two witnesses, who must state their occupations and addresses, no legalization.

**Taxes.**—From date of filing 4th, 5th, 6th and 7th years, \$55 each year; 8th and 9th years, \$80 each year; 10th, 11th, 12th and 13th years, \$105 each year.

**Working.**—There are no requirements.

**Assignment.**—Preparing and recording, \$35.

#### TRADE MARKS.

**Duration.**—Fourteen years.

**Requirements.**—Power of attorney; six copies of the mark.

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### LEEWARD ISLES.

#### PATENTS.

**Term.**—Fourteen years, elapses with the prior foreign patent.

**Applicant.**—Inventor.

**Requirements.**—The same as for Jamaica.

**Taxes.**—Cost, including agency fees: Before the expiration of the third year, \$60; 7th year, \$110.

**Working.**—None.

**Assignment.**—Preparing and recording, \$40.

#### TRADE MARKS.

**Duration.**—Fourteen years, renewable.

**Requirements.**—Authorization; seven copies of mark and one electrotype.

—o—

### LIBERIA.

#### PATENTS.

**Term.**—Twenty years.

**Applicant.**—Applicant, inventor or assignee.

**Requirements.**—Petition, power of attorney; oath, legalized by the Liberian Consul; certificate that the applicant is the inventor, certified by the Liberian Consul; specification in duplicate; drawings in duplicate.

**Taxes.**—None.

**Working.**—Within three years from date of patent. Cost of the same, \$100.

**Assignment.**—Preparing and recording, \$50.

#### TRADE MARKS.

No law.

## LUXEMBOURG.

### PATENTS.

**Term.**—Fifteen years.

**Applicant.**—Inventor or assignee, preference being given to first applicant.

**Requirements.**—Power of attorney; specification in duplicate in German or French; drawings in duplicate.

**Taxes.**—Cost, including agency fees (from date of application): 2nd year, \$7; 3d year, \$9; and so on, adding \$2 per year. Three months' grace is given.

**Working.**—Must be performed within three years. Cost, \$25.

**Assignment.**—Preparing and recording, including Consular fee, \$15.

### TRADE MARKS.

**Duration.**—Ten years.

**Requirements.**—Power of attorney, no legalization required; five copies of the mark and one electrotype.

—o—

## MALTA AND GOZO.

### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor or his authorized agent.

**Requirements.**—Power of attorney; legalized; declaration; specification and drawings in duplicate.

**Taxes.**—Cost, including agency fees: Before the end of the 4th year, \$30; 5th, 6th and 7th years, \$35 each; 8th, 9th years, \$45 each; 10th year, \$60; 11th, 12th and 13th years, \$70 each.

**Working.**—Within one year from date of issue.

**Assignment.**—Preparing and recording, \$35.

### TRADE MARKS.

**Duration.**—Fourteen years, renewable.

**Requirements.**—Power of attorney and eight copies of the mark.

—o—

## MAURITIUS.

### PATENTS.

**Term.**—Twenty years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Power of attorney, legalized; petition; declaration; specification and drawings in duplicate.

**Taxes.**—None.

**Working.**—None.

**Assignment.**—Preparing and recording, including Consular fee, \$50.

### TRADE MARKS.

**Duration.**—Unlimited.

**Requirements.**—Power of attorney; five specimens of mark and three electros. The mark must be advertised in three daily papers.

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## MEXICO.

### PATENTS.

**Term.**—Twenty years.

**Applicant.**—Inventor.

**Requirements.**—Power of attorney; specification in duplicate; drawings in triplicate; one on bristol-board and two on tracing cloth,  $10 \times 15$ .

**Taxes.**—Cost, including agency fees, \$25 for 20 years or \$5 for the first year and \$20 for the remaining 19 years (advisable to pay the \$25 for the full term in advance).

**Working.**—Before the expiration of three years; grant of license compulsory.

**Assignment.**—Preparing and recording, including Consular fee, \$35.

### TRADE MARKS.

**Duration.**—Twenty years; renewable every twenty years.

**Requirements.**—Legalized power of attorney; twelve copies of the mark and electrotypes.

Art. 9. Registered Marks must bear inscriptions stating respectively:

I. Those used by manufacturers, industrialists, agriculturists,

etc. "Marca Industrial Registrada," or "M. Ind. Rgtrda."; also the number and date of registration.

II. Those used by Merchants "Marca de Comercio Registrada," or "M. de C. Rgtrda.", with number and date of registration.

III. When the marks consist of names, denominations, inscriptions, etc., or of initial letters or abbreviations; or when they consist of signs, marks or symbols accompanied by names, denominations, etc., or initial letters or abbreviations, the said marks must bear in a visible manner the name of the owner of the industry, the name of the business, manufactory, etc., if it has one, and its location.

### DESIGNS.

**Duration.**—Twenty years.

**Requirements.**—Power, legalized by Mexican Consul; three copies, drawings or photographs.

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## mysore.

### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Application; power of attorney; seven copies of specification and seven copies of drawings.

**Taxes.**—Cost, including agency fees, before the expiration of the 4th, 5th, 6th, 7th and 8th years, \$30; before the 9th, 10th, 11th, 12th and 13th years, \$60; extension of time can be had; one month, \$5; two months, \$12; three months, \$20.

**Working.**—None.

**Assignment.**—Preparing and recording assignment, \$20.

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## NATAL.

### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor or his assignee, or importer.

**Requirements.**—Power of attorney, legalized; specification in duplicate and drawings in duplicate.

**Taxes.**—Before the end of the 3d year, \$30; before the end of the 7th year, \$60.

**Working.**—None.

**Assignment.**—preparing and recording, \$30.

#### TRADE MARKS.

**Duration.**—Fourteen years, renewable for similar periods.

**Requirements.**—Application; power of attorney; six copies of the mark; electrotype.

Trade marks of Natal have full protection in Zululand.

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### NEGRI-SEMBOLILAN.

#### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Petition accompanied by declaration; power of attorney in duplicate legalized by the British Consul; certified copy of British patent; specification and drawings in duplicate same as for Great Britain.

**Taxes.**—None.

**Working.**—There are no conditions.

**Assignment.**—Preparing and recording assignment, \$25.

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### NEWFOUNDLAND.

#### PATENTS.

**Term.**—Fourteen years, limited by earlier foreign patent.

**Applicant.**—Inventor; where a foreign patent exists the assignee or owner of the foreign patent may apply.

**Requirements.**—Petition; oath; specification, legalized by the British Consul; drawings in duplicate.

**Taxes.**—None.

**Working.**—Within two years from date of patent.

**Assignment.**—Preparing and recording, including Consular fee, \$25.

#### TRADE MARKS.

**Duration.**—Indefinite.

**Requirements.**—Power of attorney; declaration, legalized by British Consul and six copies of the mark.

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## NEW ZEALAND.

### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—The inventor or his assignee or communicator.

**Requirements.**—Specification in duplicate; application form; statement of address; drawings in duplicate; one on tracing cloth, and one on drawing paper, size 8  $\times$  13 inches or 13  $\times$  16 inches. Lines in good black ink, same strength and color being maintained throughout. Shading in lines clearly and distinctly drawn, and as open as consistent with the required effects. Section lines not too closely drawn. Letters and figures of reference bold and distinct. No color must be used for any purpose upon the duplicate of the drawing. All drawings or copies must be delivered flat or rolled upon a roller to avoid creases or breaks.

**Taxes.**—Cost, including agency fees: Before the end of the 4th year, \$30; before the end of the 7th year, \$60. Patents to be forwarded for indorsement.

**Working.**—There are no provisions.

**Assignment.**—Preparing and recording assignment, \$25.

### TRADE MARKS.

**Duration.**—Fourteen years, renewable every fourteen years.

**Requirements.**—Power of attorney; statement of address; application; five copies of mark and one electrotype.

### DESIGNS.

**Duration.**—Five years; not renewable.

**Requirements.**—Application accompanied by four exactly similar sketches, drawings, photographs, or tracings of the design, or by four specimens of the design; authorization.

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## NICARAGUA.

### PATENTS.

**Term.**—The duration of a patent is fixed by the government.

It usually runs from five to ten years. Patents are granted by Congress.

**Applicant.**—The inventor or his assignee (assignment must be produced).

**Requirements.**—Legalized power of attorney; drawings in duplicate; specification in duplicate.

**Taxes.**—There is an annuity payable on the 1st of January of each year during the life of the patent, which amounts to from \$20 to \$100, according to the importance of the undertaking. There is no grace for paying taxes.

**Working.**—Within one year from date of grant of the patent, not to be abandoned thereafter for more than one year.

**Assignment.**—Preparing and recording assignment, including consular legalization, \$75

#### TRADE MARKS.

**Term.**—Ten years.

**Requirements.**—Power of attorney legalized by the Nicaraguan Consul; ten copies of the mark; one electrotype.

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## NORTHERN NIGERIA.

#### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Petition with an application, signed by the applicant; six copies of the specification and six copies of the drawings upon any kind of paper or tracing cloth; copy of the British patent; power of attorney signed by two witnesses, whose full address must be given.

**Taxes.**—From date of filing; before the expiration of the 4th year, \$350; before the expiration of the 8th year, \$700.

**Working.**—There are no requirements.

**Assignment.**—Preparing and recording assignment, \$50.

#### TRADE MARKS.

**Duration.**—Fourteen years, renewable.

**Requirements.**—Power of attorney; six copies of the mark; electrotype or wood cut.

## NORWAY.

### PATENTS.

**Term.**—Fifteen years.

**Applicant.**—The inventor or his assignee (who must forward legalized assignment papers).

**Requirements.**—Power of attorney; specification in duplicate in Norwegian; drawings in duplicate, one copy on bristol-board, and one on cloth. The bristol-board copy must be in good black ink, with no colors or washes. Any one of these sizes is allowable: (a)  $13 \times 8\frac{1}{4}$  inches; (b)  $13 \times 16\frac{1}{2}$  inches; (c)  $13 \times 24\frac{3}{4}$  inches, including a margin of  $\frac{3}{4}$  of an inch all around, and  $1\frac{1}{4}$  inches blank inside margin at the top. Signatures of the applicant must be placed in the lower right-hand corner. All writing must be inside the margin.

**Taxes.**—Cost, including agency fees, annually from date of application; 2nd year, \$6; 3d year, \$7.50, and so on, increasing \$1.50 per year. Ninety days' extension; fine one-fifth of the amount of annuity.

**Working.**—Must be proved within three years of grant and must not be discontinued for a year at any time thereafter. Cost, \$35.

**Assignment.**—Preparing and recording, including Consular fee and legalized power of attorney, \$17.

### TRADE MARKS.

**Duration.**—Ten years, which may be extended for like periods.

**Requirements.**—Certified copy of home registration, legalized by Norwegian Consul; legalized power of attorney; five copies of mark and two electros or wood cut.

### COPYRIGHTS.

Protection is granted without any formalities with regard to registration.

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## OMAN.

### PATENTS.

There is no patent law in this state, but exclusive privileges may be obtained through the medium of the British political authorities at Muscat.

The closest relations have for year existed between the governments of India and Oman, and the trade, which is considerable, is practically in Anglo-Indian hands.

#### TRADE MARKS.

There is no ordinance relating to trade marks, but advertisement of ownership, registration at the custom house of Muscat or public use of a mark would be considered as ground for raising action against infringement.

---

### ORANGE RIVER COLONY.

#### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor or importer.

**Requirements.**—Legalized power of attorney; petition; specification in duplicate; drawings in duplicate.

**Taxes.**—Cost, including agency fees: Before the end of the 3d year, \$30; before the end of the 7th year, \$60.

**Working.**—There are no conditions.

**Assignment.**—Preparing and recording, including consular fee, \$40.

#### TRADE MARKS.

**Duration.**—Unlimited.

**Requirements.**—Power of attorney; six copies of the mark, electrotype or wood cut.

---

### PAHANG.

#### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Petition accompanied by declaration; power of attorney in duplicate legalized by the British Consul; certified copy of British patent; specification and drawings in duplicate same as for Great Britain.

**Taxes.**—None.

**Working.**—There are no conditions.

**Assignment.**—Preparing and recording assignment, \$25.

## PANAMA.

### PATENTS.

**Term.**—From five to twenty years.

**Applicant.**—The inventor.

**Requirements.**—Power of attorney, legalized by Panama Consul; specification in duplicate; drawings in duplicate.

**Taxes.**—Cost of protection for each year is \$10. The minimum of years for which protection can be secured is five.

**Working.**—None.

**Assignment.**—Preparing and recording, \$40.

### TRADE MARKS.

**Duration.**—Unlimited.

**Requirements.**—Power of attorney legalized; certified copy of home registration; five facsimiles of the mark.

### COPYRIGHTS.

**Duration.**—Forever.

**Requirements.**—Three copies of the book or pamphlet; legalized power of attorney. Cost, \$35.

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## PANAMA CANAL ZONE.

The Isthmian Canal Commission, under date of November 30, 1904, wrote to the Secretary of War as follows:

There has been no legislation by this commission with regard to the registration and protection of patents or trade marks in the Canal Zone, as we are advised by our counsel that this must come from the Congress of the United States, we hope that this matter will be taken up early in the coming session.

---

## PARAGUAY.

### PATENTS.

**Term.**—Ten years.

**Applicant.**—The inventor or his assignee (assignment must be produced).

**Requirements.**—Legalized power of attorney; specification in duplicate; drawings in triplicate.

**Taxes.**—None.

**Working.**—No formalities are required for proving the working.

**Assignment.**—Preparing and recording, including consular fee, \$50.

#### TRADE MARKS.

**Duration.**—Ten years, renewable.

**Requirements.**—Power of attorney, legalized by Paraguayan Consul; seven copies of mark.

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## PERAK.

#### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Petition accompanied by declaration; power of attorney in duplicate, legalized by the British Consul; certified copy of British patent; specification and drawings in duplicate same as for Great Britain.

**Taxes.**—None.

**Working.**—There are no conditions.

**Assignment.**—Preparing and recording assignment, \$25.

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## PERU.

#### PATENTS.

**Term.**—Ten years.

**Applicant.**—The inventor or his assignee (assignment must be produced).

**Requirements.**—Legalized power of attorney; specification in triplicate; drawings in triplicate.

**Taxes.**—None.

**Working.**—Term of working is generally two years. Cost, \$75.

**Assignment.**—Preparing and recording, including consular fee, \$50.

#### TRADE MARKS.

**Duration.**—Ten years, renewable.

**Requirements.**—Power of attorney, legalized by Peruvian Consul; eight copies of mark.

---

## PHILIPPINE ISLANDS.

### PATENTS.

Protection is secured by filing a certified copy of the U. S. patent and power of attorney with the Military Governor at Manila.

### TRADE MARKS.

**Duration.**—Thirty years, renewable.

**Requirements.**—One drawing; letter of advice; statement; declaration; power.

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## PORTO RICO.

### PATENTS.

Protection is secured by filing a certified copy of the U. S. patent and power of attorney with the Military Governor at San Juan.

### TRADE MARKS.

**Duration.**—Thirty years, renewable.

**Requirements.**—One drawing; letter of advice; statement; declaration; power.

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## PORTUGAL.

### PATENTS.

**Term.**—Fifteen years.

**Applicant.**—The inventor or his assignee.

**Requirements.**—Power of attorney; specification in duplicate in Portuguese; drawings in duplicate.

**Taxes.**—Cost, including agency fees, yearly from grant of patent, \$13. Grace is now allowed, under fine of 25% if the payment is effected within the following 30 days, and of 50%, if made within the following 60 days. The filing of the Letters Patent is no longer required.

**Working.**—Must be proved within two years of grant and every two years thereafter. Cost, \$30.

**Assignment.**—Preparing and recording, including consular legalization; cost, \$25.

The patent covers Portugal and the Azores and Madeira Islands. Separate patents are required for the colonies.

### TRADE MARKS.

**Duration.**—Ten years, renewable.

**Requirements.**—Power of attorney; twelve copies of the mark and one electrotype.

### DESIGNS.

**Duration.**—Five years.

**Requirements.**—Legalized power of attorney; six copies of the design and two statements thereof, stating the articles to which it applies. Cost, \$30.

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## PORtUGUESE COLONIES.

### PATENTS.

Separate patents for each, namely: Cape Verde, Guinea, St. Thomas and Prince, Angola, Mozambique, Portuguese Indies, and Macao and Timor. Term, 20 years.

Exactly the same proceedings as for Portuguese patents; same documents required.

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## RHODESIA.

### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor.

**Requirements.**—Legalized power of attorney; petition; specification in duplicate; drawings in duplicate.

**Taxes.**—Before the expiration of the 3d year, \$60; before the expiration of the 7th year, \$110. Letters patent required for endorsement.

**Working.**—There are no conditions.

**Assignment.**—Preparing and recording, \$30.

**TRADE MARKS.**

**Duration.**—Fourteen years, renewable for similar periods.

**Requirements.**—Application; declaration legalized by British Consul; power of attorney; six copies of mark; one electrotype.

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**ROUMANIA.****PATENTS.**

**Term.**—Fifteen years.

**Applicant.**—Inventor or assignee.

**Requirements.**—Legalized power of attorney, specification and drawings in duplicate.

**Taxes.**—From date of filing, 1st, 2nd and 3rd years, \$14; 4th and 5th years, \$28; 6th, 7th, 8th, 9th and 10th years, \$55; 11th, 12th, 13th, 14th and 15th years, \$100.

**Working.**—Four years from date of issue and shall not be interrupted for more than two years.

**Assignment.**—Preparing and recording assignment, \$20.

**TRADE MARKS.**

**Duration.**—Fifteen years, renewable for like periods.

**Requirements.**—Power of attorney, legalized by Roumanian Consul, and five copies of mark.

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**RUSSIA.****PATENTS.**

**Term.**—Fifteen years, limited by earlier foreign patent.

**Applicant.**—The inventor or his assignee (assignment must be produced and recorded).

**Requirements.**—Legalized power of attorney; specification in duplicate in Russian; drawings in duplicate, one on tracing cloth and one on bristol-board, size  $8 \times 13$  or  $13 \times 16$  inches, with a margin of one inch all around and one inch inside the border line at the top for heading. The word Fig. must not appear on the drawings. Drawings of agricultural implements must be made to a scale and the scale indicated on the drawings.

**Taxes.**—Cost, including agency fees (from grant of patent): 2d year, \$18; 3rd year, \$21; 4th year, \$24; 5th year, \$32; 6th

year, \$37; 7th year, \$47; 8th year, \$62; 9th year, \$77; 10th year, \$97; adding \$25 each year. One month's extension add 10 percent of the annual fee due; two months 15 per cent and three months, 25 per cent.

**Working.**—Must be proved within five years from the date of grant. Actual manufacture or working on commercial scale is alone accepted. Cost uncertain.

**Assignment.**—Preparing and recording, including Consular legalization, \$20.

### TRADE MARKS.

**Duration.**—Ten years, renewable for like periods.

**Requirements.**—Certified copy of home registration, legalized by Russian Consul; legalized power of attorney; one hundred and ten copies of the mark and electrotype must contain the name of the proprietor in Russian.

### COPYRIGHTS.

There is no registration in this country. Books are printed in the Russian language. The publisher can bring lawsuit against infringers.

### DESIGNS.

**Duration.**—From one to ten years.

**Requirements.**—Power of attorney and declaration, legalized by Russian Consul; three drawings on tracing cloth. Cost, \$30.

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## SAN SALVADOR.

### PATENTS.

**Term.**—Twenty years, limited by earlier foreign patents. In exceptional cases term may be extended an additional five years.

**Applicant.**—Inventor or his assignee (assignment must be produced).

**Requirements.**—Legalized power of attorney; drawings in duplicate; specification in duplicate.

**Taxes.**—From date of grant. At the end of the 5th year, \$50; at the end of the 7th year, \$75; at the end of the 15th year, \$150. Two months' grace allowed without fine.

**Working.**—There are no requirements.

**Assignment.**—Preparing and recording assignment, including consular legalization, \$75.

#### TRADE MARKS.

**Duration.**—Indefinite.

**Requirements.**—Power of attorney, legalized by Consul; certified copy of original registered mark, legalized by Consul of San Salvador; ten copies of the mark.

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### SANTO DOMINGO.

#### PATENTS.

Special concessions or privileges in the nature of patents can be secured by special act of Congress.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Power of attorney legalized by Dominican Consul; specification and drawings in duplicate.

**Taxes.**—None.

**Working.**—There are no requirements.

**Assignment.**—Preparing and recording, \$35.

#### TRADE MARKS.

There is no law relating to the registration of trade marks, and in the absence of such ordinance the usual course to obtain protection is by public advertisement of the mark with claim of exclusive ownership.

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### ST. LUCIA.

#### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Application with declaration signed by applicant, no legalization required; authorization signed by applicant, no legalization required; specification and drawings in duplicate, same as for Great Britain.

**Taxes.**—\$18 before the expiration of the 4th year; \$23 before the expiration of the 5th year; \$28 before the expiration of the 6th

year, and so on, adding \$5 each year. Fine for one month's extension, \$5; two months, \$15, and three months, \$25.

**Working.**—There are no requirements.

**Assignment.**—Preparing and recording assignment, \$40.

#### TRADE MARKS.

No trade-marks act.

Protection can be obtained under the Merchandise Marks Ordinance 1888 No. 22.

Same documents necessary as for Great Britain.

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### ST. HELENA.

#### PATENTS.

**Term.**—For unexpired term of the British patent.

**Applicant.**—Inventor, importer or communicator.

**Requirements.**—Petition; declaration; power of attorney; certified copy of the British patent.

**Taxes.**—None.

**Working.**—None.

**Assignment.**—Preparing and recording, \$50.

#### TRADE MARKS.

There are no special regulations as regards trade marks, the laws in force in Great Britain being taken for guidance according to paragraph 23 of Ordinance 3 of 1895.

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### ST. VINCENT.

#### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Application with declaration signed by applicant, no legalization required; authorization signed by applicant, no legalization required; specification and drawings in duplicate, same as for Great Britain.

**Taxes.**—\$18 before the expiration of the 4th year; \$23 before the expiration of the 5th year; \$28 before the expiration of the 6th

year, and so on, adding \$5 each year. Fine for one month's extension, \$5; two months, \$15, and three months, \$25.

**Working.**—There are no requirements.

**Assignment.**—Preparing and recording assignment, \$40.

#### TRADE MARKS.

No trade-marks act.

Trade marks can be protected under Merchandise Marks Ordinance 1888 No. 8 (Subst. British).

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#### SELANGOR.

##### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Petition accompanied by declaration; power of attorney in duplicate legalized by the British Consul; certified copy of British patent; specification and drawings in duplicate, same as for Great Britain.

**Taxes.**—None.

**Working.**—There are no conditions.

**Assignment.**—Preparing and recording assignment, \$25.

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#### SERVIA.

##### PATENTS.

No law exists for the protection of patents.

#### TRADE MARKS.

**Duration.**—Ten years, renewable for like periods.

**Requirements.**—Power of attorney legalized by Servian Consul; five copies of mark and a sample of material marked.

#### DESIGNS.

**Duration.**—From one to ten years.

**Requirements.**—Power of attorney legalized; drawings in duplicate; statement. Cost for one year, \$10; each additional year, \$5 more.

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## SEYCHELLES.

### PATENTS.

Patents are granted for fourteen years to the inventor or first importer into the colony of any invention. Taxes of 500 rupees and of 1,000 rupees are payable before the expiration of the 4th and 7th years, respectively, of the life of the patent, or payment may be made in annual installments.

### TRADE MARKS.

No trade marks act exists. Trade marks may be protected under the Merchandise Marks Ordinance 1903, No. 23 (Subst. British).

Articles 103-5 of the Penal Code (Mauritius Ordinance 6 of 1838) as to counterfeit marks.

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## SIAM.

### PATENTS.

There is no patent law in this state, but the Siamese government will take an interest in the introduction of inventions which would be advantageous to the state, and will grant exclusive privileges for new inventions of certain kinds.

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## SOMALILAND PROTECTORATE.

### PATENTS.

No regulations have been issued with regard to patents in this state, and in the absence of such regulations decision in these matters would rest with the foreign office, to whom special reference would have to be made in each case.

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## SOUTHERN NIGERIA.

### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor or his assignee.

**Requirements.** Petition with an application, signed by the applicant; six copies of the specification and six copies of the draw-

ings upon any kind of paper or tracing cloth; copy of the British patent; power of attorney signed by two witnesses, whose full address must be given.

**Taxes.**—From date of filing; before the expiration of the 4th year, \$350; before the expiration of the 8th year, \$700.

**Working.**—There are no requirements.

**Assignment.**—Preparing and recording assignment, \$50.

#### TRADE MARKS.

**Duration.**—Fourteen years.

**Requirements.**—Power of attorney; six copies of the mark; electrotype or wood cut.

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#### SPAIN.

#### PATENTS.

**Term.**—Twenty years; if foreign patent exists, patent will run for five years.

**Applicant.**—The inventor or his assignee.

**Requirements.**—Power of attorney; specification in duplicate in Spanish; drawings in duplicate, on cloth, size  $8\frac{1}{8} \times 12\frac{1}{8}$  inches.

**Taxes.**—Including agency fees yearly from date of patent; 2d year, \$7; 3d year, \$9, and so on, adding \$2 for each year, counting from the date of signature of patent. Annuities can be paid without fine until the last day of the month in which the patent was issued. One month's grace with a fine of \$2; two months, \$4; three months with fine of \$6.

**Working.**—Must be proved within three years of grant, and continuously yearly, cost \$50.

**Assignment.**—Preparing and recording, including consular legalization, \$40.

#### TRADE MARKS.

**Duration.**—Five, ten or twenty years, renewable for like periods.

**Requirements.**—Certified copy of home registration, legalized by Spanish Consul; legalized power of attorney; five specimens of mark and one electrotype.

#### COPYRIGHTS.

This country does not grant copyrights to American citizens, as there is no treaty between the United States and Spain.

**DESIGNS.**

**Duration.**—Twenty years.

**Requirements.**—Power of attorney; and five specimens of the design.

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**STRAITS SETTLEMENT.****PATENTS.**

**Term.**—Fourteen years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Petition, accompanied by declaration; certified copy of the British patent; power of attorney; specification in duplicate and drawings in duplicate; same as for Great Britain.

**Taxes.**—None.

**Working.**—There are no conditions.

**Assignment.**—Preparing and recording assignment, \$25.

**TRADE MARKS.**

There is no trade marks act in this colony, the only form of registration being with the Collector of Customs. Protection is, however, assured by advertisement of ownership in local papers, infringement of trade marks being a criminal offense.

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**SUDAN.****PATENTS.**

It has been decided that all patents and trade marks for which protection has been obtained in the Mixed Tribunal of Egypt shall be equally protected in Sudan; still we advise advertisements in the Sudan Goverment Gazette, which has been held sufficient proof of lodgment of claim.

**TRADE MARKS.**

See above.

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**SURINAM.**

(Dutch Guiana.)

**PATENTS.**

No patent law exists.

**TRADE MARKS.**

**Duration.**—Twenty years, renewable.

**Requirements.**—Power of attorney; six facsimiles of mark, The publication of the application must be inserted in the Official Journal of Surinam.

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**SWEDEN.****PATENTS.**

**Term.**—Fifteen years.

**Applicant.**—The inventor or his assignee (who must furnish legalized assignment papers).

**Requirements.**—Power of attorney; specification in duplicate in Swedish; drawings in duplicate, one copy on bristol board and one on cloth. The bristol board copy must be in good black ink, with no colors or washes. Any one of these sizes is allowable: (a) 13x8½ inches; (b) 13x16½ inches; (c) 13x24¾ inches, including a margin of ¾ of an inch all around, and 1¼ inches blank inside margin at the top. Signatures of the applicant must be placed in the lower right-hand corner.

**Taxes.**—Including agency fees, from date of application, before the end of the 1st, 2nd, 3rd and 4th years, \$10; 5th, 6th, 7th, 8th and 9th years, \$17; 10th, 11th, 12th, 13th and 14th years, \$26; payable yearly from date of application. Extension of ninety days allowed on adding one-fifth of the amount of the fee, by way of fine.

**Working.**—Must be proved within three years from date of grant, and not abandoned for more than one year. Extension for one year can be obtained. Cost of working, \$30.

**Assignment.**—Preparing and recording assignment, including consular fee, \$15.

**TRADE MARKS.**

**Duration.**—Ten years, renewable for like periods.

**Requirements.**—Certified copy of home registration, legalized by the Swedish Consul and legalized power of attorney. Five copies of mark and two electros.

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## SWITZERLAND.

### PATENTS.

**Term.**—Fifteen years.

**Applicant.**—The inventor or his assignee.

**Requirements.**—Power of attorney; specification in duplicate, in French or German; drawings in duplicate, one on tracing cloth and one on bristol-board; size,  $8\frac{1}{4} \times 13$  inches, or  $13 \times 16\frac{1}{2}$  inches. As few sheets as practicable must be used, and where several sheets are necessary, it is preferred that the views be combined on the larger-sized sheets ( $13 \times 16\frac{1}{2}$  inches), so as to make as few sheets as possible. The bristol-board copy must be in good black ink only, without colored lines or tints. The duplicate copy on cloth may have the parts designating the invention colored. Treatment must be even, lines of equal importance being of equal strength. The fine lines for sections and those which represent parts must not run into one another. Shading must be limited to what is absolutely necessary. Letters of reference and numerals must be strong and distinct, and not less than 3 mm.—about  $\frac{1}{8}$  of an inch in height. Same letters must be used for the same parts. In complicated constructions the letters should be outside the outlines, and connected by hair-lines with the parts designated. The scale of drawings must be large enough for clearness, and if the scale is given on the drawing it must not be in words, but graphically and according to the metric scale.

Provisional patents must be completed by furnishing proof of an existing model by filing the said model or a photograph of the same within three years.

**Taxes.**—Including agency fees, yearly from date of application: 2nd year, \$9; 3d year, \$11, and so on, increasing \$2 each year. Three months' grace is allowed without extra payment.

**Working.**—Must be proved within three years. Proof may be furnished by photograph of features claimed. Cost, \$16. If working is not done to a sufficient extent within the time stipulated the patent will be revoked. Law strictly upheld.

**Assignment.**—Preparing and recording, including consular fee, \$18.

### TRADE MARKS.

**Duration.**—Fifteen years.

**Requirements.**—Certified copy of home registration legalized by

Swiss Consul; power of attorney (no legalization required); five copies of mark and one wood cut or electrotype; declaration or the like verifying applicant's business must be produced.

### COPYRIGHTS.

**Duration.**—Duration of the copyright is the life of the author and thirty years after his death.

**Requirements.**—Power of attorney and a copy of the book in the original language. Cost, \$50.

### DESIGNS.

**Duration.**—Two to fifteen years.

**Requirements.**—Power of attorney; drawings in duplicate on tracing cloth. Cost, \$20 for two years; can be extended.

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## TRANSVAAL.

### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor, importer or communicator.

**Requirements.**—Power of attorney, legalized; application; specification in duplicate; drawings in duplicate, on drawing paper of smooth surface and good quality without color or washes. Reference letters must be bold and distinct, and the same letters should be used in different views of the same parts. Drawings must bear the name of the applicant (and in the case of drawings left with a complete specification after a provisional specification the number and year of the application) in the left-hand top corner, and the signature of the applicant or his agent in the right-hand bottom corner. No written description of the invention should appear on the drawings. When scale is shown on the drawings it should be denoted not by words, but by a drawn scale.

**Taxes.**—Cost, including agency fees: At the expiration of the 3rd year, \$15; 4th year, \$20, adding \$2.50 each year.

**Working.**—No requirements.

**Assignment.**—Preparing and recording, including consular fee, \$50.

### TRADE MARKS.

**Duration.**—Indefinite.

**Requirements.**—Power, legalized by British Consul; application; six copies of mark and one electrotype.

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## TRINIDAD.

### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor or importer.

**Requirements.**—Petition; declaration; power of attorney; specification in duplicate and drawings in duplicate.

**Taxes.**—None.

**Working.**—There are no requirements.

**Assignment.**—Preparing and recording, including consular fee, \$50.

### TRADE MARKS.

**Duration.**—Fourteen years; renewable.

**Requirements.**—Power of attorney; eight copies of mark; electrotype or wood cut.

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## TUNIS.

### PATENTS.

The law in this French colony resembles in all substantial effects the law in France.

### TRADE MARKS.

**Duration.**—Fifteen years, and can be extended.

**Requirements.**—Power, legalized by French Consul; five specimens and one electrotype.

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## TURKEY.

### PATENTS.

**Term.**—Fifteen years.

**Applicant.**—The inventor or his assignee.

**Requirements.**—Legalized power of attorney; specification in duplicate in Turkish; drawings in duplicate.

**Taxes.**—Including agency fees, \$20 each year from date of application.

**Working.**—Must be proved within two years of grant of the patent. The working is not to be interrupted for more than two years at any time. Proof of working, \$50; cost varies, but average is \$50.

**Assignment.**—Preparing and recording assignment, including consular legalization fee, \$25.

### TRADE MARKS.

**Duration.**—Fifteen years, renewable for like terms.

**Requirements.**—Legalized power of attorney; four copies of mark and one electro or wood cut.

### COPYRIGHTS.

Copyright can be procured only by special order of the industrial section of the Ministry of Commerce. Cost, \$50.

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## UNITED STATES.

### PATENTS.

**Term.**—Seventeen years.

**Applicant.**—Inventor.

**Requirements.**—Petition; power of attorney; oath; specification and drawings, one copy on smooth white card (bristol-board), 15 inches deep by 10 inches wide, with 1-inch marginal line. Space of  $1\frac{1}{4}$  inch in breadth to be left blank within the margin along each of the shorter dimensions of the sheet. One of the shorter sides to be the top. All views to lie in the same way on each sheet. Sections represented by solid black lines are objected to. A tracing or blue print should always be sent for use of the attorney.

**Taxes.**—Twenty dollars for seventeen years.

**Assignment.**—Preparing and recording, \$5.

### TRADE MARKS.

**Duration.**—Twenty years, renewable.

**Requirements.**—One drawing; petition; power; statement; declaration; appointment of representative; five facsimiles; certified copy of home registration, legalized by United States Consul.

**COPYRIGHTS.**

**Duration.**—Term of copyright is twenty-eight years; renewable for fourteen years.

**Requirements.**—One copy of the printed title. Not later than the day of publication in this country or abroad two complete copies of the best edition of each book or other article must be delivered or deposited in the mail within the United States, addressed Librarian of Congress, Washington, D. C.

**DESIGNS.**

**Duration.**—Three and a half, seven or fourteen years.

**Requirements.**—Power of attorney; specification; oath taken before United States Consul and drawings.

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**URUGUAY.****PATENTS.**

**Term.**—Three, six or nine years.

**Applicant.**—The inventor or his assignee (assignment must be produced).

**Requirements.**—Legalized power of attorney; if foreign patent exists, legalized copy thereof; specification in duplicate; drawings in duplicate.

**Taxes.**—Cost, including agency fees, \$30 per year, payable within the first ten days of each year.

**Working.**—The executive fixes, in each case, the term in which the patentee must work the invention and informs the Patent office about it. Cost, including agency fees, \$60.

**Assignment.**—Preparing and recording assignment, \$50.

**TRADE MARKS.**

**Duration.**—Ten years; renewable every ten years.

**Requirements.**—Power of attorney, legalized by Uruguayan Consul; certified copy of original registered mark in the country where the proprietor of the mark is established, legalized by the Uruguayan Consul; ten copies of the mark.

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## VENEZUELA.

### PATENTS.

**Term.**—Five, ten or fifteen years.

**Applicant.**—The inventor or his assignee (assignment must be produced).

**Requirements.**—Legalized power of attorney; drawings in duplicate; specification in duplicate. If foreign patent exists a certified copy of the foreign patent.

**Working.**—Must be established within the term indicated in the patent. The length of this term depends upon the number of years for which the patent has been granted; cost of working, \$50.

**Taxes.**—None.

**Assignment.**—Preparing and recording, including consular fee, \$50.

### TRADE MARKS.

**Duration.**—Same as in country of origin; renewable.

**Requirements.**—Power of attorney, legalized by the Venezuelan Consul; certified copy of original registered mark, legalized by the Venezuelan Consul.

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## WEI - HAI - WEI.

### PATENTS.

We are advised by H. M. Commissioner that while there is no law in existence dealing with inventions, the government of the Protectorate will be prepared, if occasion arises, to introduce the same legislation as is in force in the Colony of Hong Kong.

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## ZANZIBAR.

### PATENTS.

**Term.**—Fourteen years.

**Applicant.**—Inventor or his assignee.

**Requirements.**—Petition with an application, signed by the applicant; six copies of the specification and six copies of the drawings upon any kind of paper or tracing cloth; copy of the British patent; power of attorney signed by two witnesses, whose full address must be given.

**Taxes.**—From date of filing; before the expiration of the 4th year, \$350; before the expiration of the 8th year, \$700.

**Working.**—There are no requirements.

**Assignment.**—Preparing and recording assignment, \$50.

#### TRADE MARKS.

**Duration.**—Unlimited.

**Requirements.**—Power of attorney legalized by British Consul; declaration and seven copies of the mark.

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#### ZULULAND.

#### TRADE MARKS.

**Duration.**—Fourteen years, renewable for similar periods.

**Requirements.**—Application; power of attorney; declaration, legalized by the British Consul; six copies of the mark and one electrotype.

Registered trade marks of Natal have full protection in Zululand.

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## TIME FOR FILING APPLICATIONS FOR PATENTS

### WITHIN A LIMITED TIME AFTER PUBLICATION:

Canada, Ceylon, India, Mysore, 1 year of first sealing abroad.

Mauritius, 1 year of sealing British patent.

New Zealand, New Guinea, Queensland, Tasmania, West Australia, 1 year of application for British patent.

Mexico, 3 months after issue of first patent.

Norway, 6 months of publication.

Transvaal, 1 year of date of foreign patent.

Uruguay, first year of a foreign grant.

Venezuela, 2 years of public sale, etc.

Victoria, about 7-8 months of first grant elsewhere.

### AT ANY TIME DURING CURRENCY OF A PATENT ELSEWHERE AND EXPIRING THEREWITH SOONER:

Belgium, Italy, Russia, Honduras, United States of Colombia, Congo, Argentine (limit 10 years' term), Spain (limit 5 years' term).

Letters of registration in Lagos, Gold Coast Colony, Gambia, and Southern Nigeria.

### AT ANY TIME DURING CURRENCY OF A BRITISH PATENT AND EXPIRING THEREWITH:

Fiji, Hong Kong, St. Helena.

Of a British or British Colonial patent: British Borneo, Negri Sembilan, Pahang, Perak, Selangor, Straits Settlements.

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### THE FOLLOWING PATENTS EXPIRE WITH PREVIOUS PATENTS ELSEWHERE:

Argentine, Belgium (with longest term foreign), Brazil, British Guiana, British Honduras, Canada, Cape Colony, Ceylon (or with British, if any), U. S. of Colombia, Congo, Costa Rica, Fiji, France, India (or with British, if any), Italy, Jamaica, Leeward Isles, Luxembourg (expires with German only, whether previous-

ly granted or not), Mysore (or with either British or Indian, if either), Natal, Newfoundland, Orange River Colony, Rhodesia, Russia (with shortest term foreign patent), Tunis, Turkey, Venezuela.

Patents taken under International Convention are to be exempt from any liability that might otherwise attach to them of expiring with previous patents in the other contracting States.

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## WHO MAY APPLY IN PLACE OF THE INVENTOR.

Assignee may apply in the following countries:

Argentine, Austria, Belgium, Borneo, Canada (assignment must be produced and recorded), Ceylon, Congo, Denmark (assignment must be produced and recorded), Finland, France, Germany, Hungary, Hong Kong, India (assignment must be produced and recorded), Italy, Japan, Jamaica (assignment must be produced and recorded), Liberia (assignment must be produced and recorded), Mysore, Mauritius, Mexico, New Zealand (assignment must be produced and recorded), Norway (assignment must be produced and recorded), Peru, Russia (assignment must be produced and recorded), Switzerland (assignment must be produced and recorded), Spain, Straits Settlements, St. Helena, Sweden (assignment must be produced and recorded), Turkey, Uruguay, Venezuela.

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**A C T S**

Governing the Union for the Protection of Industrial Property  
as from September 14th, 1902.

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**I. CONVENTION OF MARCH 20th, 1883,**

For the Protection of Industrial Property, with the modifications and additions which have been made by the conferences at Madrid and Brussels.

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**CONVENTION :**

Signature, March 20, 1883, at Paris.

Deposition of the ratifications, June 6, 1884, at Paris.

Entered into force, July 6, 1884.

**RECORDS RESPECTING THE ENDOWMENT OF THE INTERNATIONAL OFFICE :**

Signature, April 15, 1891, at Madrid.

Deposition of ratifications, June 15, 1892, at Madrid.

Entered into force, January 1, 1898.

**ADDITIONAL CHARTER :**

Signature, December 14, 1900, at Brussels.

Deposition of ratifications (close of the proceedings), June 14, 1902, at Brussels.

Entered into force, September 14, 1902.

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**List of the States That Are Members of the Union.**

BELGIUM, BRAZIL, SPAIN, FRANCE with Algiers and Colonies, GREAT BRITAIN, ITALY, NETHERLANDS, PORTUGAL with Azores and Madeira, SERVIA, SWITZERLAND, TUNIS, since the convention entered into force.

NORWAY, from July 1, 1885.

SWEDEN, from July 1, 1885.

UNITED STATES OF AMERICA, from May 30, 1887.

DUTCH INDIES, from October 1, 1888.

SURINAM and Curacao, from July 1, 1890.

DOMINGO (Republic), from July 11, 1890.

NEW ZEALAND and Queensland, from September 7, 1891.

DENMARK and Faroe Islands, from October 1, 1894.

JAPAN, from July 15, 1899.

GERMANY, from May 1, 1903.

MEXICO, from September 7, 1903.

His Majesty the King of the Belgians, His Majesty the Emperor of Brazil, His Majesty the King of Spain, the President of the French Republic, the President of the Republic of Guatemala, His Majesty the King of Italy, His Majesty the King of the Netherlands, His Majesty the King of Portugal and of the Algraves, the President of the Republic of Salvador, His Majesty the King of Servia and the Federal Council of Swiss Confederation.

Equally animated by the desire to assure, by mutual consent, a complete and effective protection of the Industries and Commerce of the Natives of their respective States and to contribute towards the guarantee of the Rights of Inventors and to the integrity of commercial transactions, have decided to form a convention for that purpose and have appointed as their Plenipotentiaries, viz.:

\* \* \* \* \*

Who, after having communicated to each other their respective full powers, which were found to be in due and proper form, agreed upon the following articles:

Article 1.—The governments of Belgium, Brazil, Spain, France, Guatemala, Italy, the Netherlands, Portugal, Salvador, Servia and Switzerland have formed a Union for the Protection of Industrial Property.

Article 2.—The subjects or citizens of each of the contracting States, will enjoy in all the other States of the Union, as regards Patents of invention, designs or industrial models, trade or manufacturing marks and the commercial name, the advantages which the respective Laws at present allow or may allow hereafter to the natives. Consequently they will enjoy the same protection as the latter and the same legal remedy against any prejudice that may be caused to their rights, under reserve of their fulfilling the formalities and conditions, to which the natives are subjected by the interior legislation of each State.

Article 3.—Subjects or Citizens of States that do not form part of the Union, who are domiciled in or have actual and bona fide

industrial and commercial establishments in the territory of one of the States of the Union, are assimilated with the subjects or citizens of the contracting State.

Article 4.—Whosoever has in regular form made an application for a Patent or Invention, or the registration of a Design or industrial model, or of a manufacturing or trade mark, in one of the contracting States, will enjoy a right of priority during the delays hereafter determined, for the purpose of making the application or registration in the other States, reserving always the rights of third parties.

Consequently the application subsequently made for a Patent, or the said registrations, before the expiration of the delays, hereinafter mentioned, cannot be invalidated by any facts that have taken place in the interval, say, especially any other application or registration, by the publication of the invention or the working of the same, by the selling of copies of the design or of the model, or of the trade mark.

The delays of priority mentioned above will be twelve months for Patents of invention, four months for designs or industrial models and also for manufacturing and trade marks.

Article 4<sup>a</sup>.—The Patents applied for in the different contracting States by persons admitted to the benefits of the convention at the terms of Articles 2 and 3, will be independent of the Patents obtained for the same invention in the other States, whether belonging to the Union or not.

This stipulation will apply to Patents existing already at the time the convention comes into force.

The same will apply, in case of new States joining the Union, as regards the existing Patents, on both sides, at the time of joining.

Article 5.—The introduction by the Patentee into the country where the Patent has been granted, of articles manufactured in any of the States of the Union, will not involve its forfeiture.

Nevertheless, the Patentee will remain under the obligation of working his Patent in accordance with the Laws of the Country, where he introduces the Patented articles.

Article 6.—Any industrial or commercial trade mark, registered in a regular manner in the country of its origin, will be admitted

for registration and protected as such, in all the other countries of the Union.

The country in which the party registering the trade mark has his principal establishment, will be considered the country of origin.

If this principal establishment is not located in any of the countries of the Union, the country to which the said party belongs, will be considered the country of origin.

The registration may be refused in case the object to which it has reference, is contrary to Morals or Public order.

Article 7.—The nature of the product to which the trade mark is to be affixed, can in no case form an obstacle to the registration of the trade mark.

Article 8.—The commercial name will be protected in all the countries of the Union, without the obligation of registration, whether it forms part of an industrial or commercial trade mark, or not.

Article 9.—Any product bearing illicitly a trade mark or a commercial name may be seized on importation into those States of the Union, in which this trade mark or commercial name is entitled to legal protection.

The Seizure will take place at the request either of the proper public officer or of the interested party, in accordance with the interior legislation of each State.

In the States the legislation of which does not allow seizure on importation, this seizure may be replaced by a prohibition of importation.

The authorities are not bound to effect seizure in case of transit.

Article 10.—The stipulations of the preceding article will be applicable to any product bearing falsely, as indication of origin, the name of a definite locality, if this indication is added to a fictitious or borrowed commercial name, with fraudulent intentions.

As interested party will be considered any producer, manufacturer or merchant, engaged in the production, the manufacture or the selling of the product, and established either in the locality falsely indicated, as place of origin, or in the district where this locality is situated.

Article 10<sup>a</sup>.—Those belonging to the convention (Art. 2 and 3) will enjoy in all the States of the Union, the same protection against dishonest competition, as is afforded to natives.

Article 11.—The High contracting parties will afford temporary protection, in accordance with the legislation of each country, to patentable inventions, designs or industrial models, as well as to industrial and commercial trade marks for the products, which may be shown at Official International Exhibitions, or those officially recognized and organized on the territory of one of same.

Article 12.—Each of the High contracting parties undertakes to establish a service of industrial protection and a Central depot for communicating to the Public Patents of inventions, designs or industrial models and trade marks.

Article 13.—An International Office will be organized under the title of "International Office of the Union for the protection of industrial property."

This Office, the expenses of which will be borne by the Administrations of all the contracting States, will be placed under the high authority of the Superior Administration of the Swiss Confederation and will work under its supervision. Its powers will be mutually determined between the States of the Union.

Article 14.—The present convention will be submitted to periodical revisions, with a view to introducing improvements of a nature calculated to make the system of the Union more perfect. To this effect the conferences will successively take place in one of the contracting States, between the delegates of the said States.

Article 15.—It is understood that the High contracting parties reserve to themselves respectively, the right of making separately amongst themselves, private arrangements for the protection of industrial property, provided that such arrangements do not contravene in any way against the stipulations of the present Convention.

Article 16.—States that have not taken part in this Convention will be admitted to membership at their request.

This membership will be notified by diplomatic channel to the Government of the Swiss Confederation and by the latter to all the others.

It will carry with it, by full right, adhesion to all the clauses and admission to all the advantages, stipulated by the present Convention and will come into effect one month after the forwarding of the notification by the Swiss Government to the other States of the Union, unless some other subsequent date should have been stated by the adhering State.

Article 17.—The execution of the mutual undertakings contained in the present Convention is subordinated, as far as may be required, to the fulfilling of the formalities and rules established by the constitutional Laws of those of the High contracting parties, that are bound to instigate their application, which they undertake to do with as little delay as possible.

Article 18.—The present Convention will be carried into effect within a delay of one month, commencing from the exchange of the ratifications and will remain in force for an indefinite period up to the expiration of one year from the day on which notice of its discontinuance may be given.

This notice of discontinuance must be addressed to the Government charged with the receiving of adhesions. It will only influence the State that has given the said notice, the Convention remaining in force, as regards the other contracting parties.

Article 19.—The present Convention will be ratified and the ratifications exchanged in Paris, within the delay of one year at the outside.

In witness whereof the respective Plenipotentiaries have signed it and affixed their seals.

#### PROTOCOL OF THE CLOSE

At the moment of proceeding to sign the concluded convention on the present date, between the Governments of Belgium, Brazil, Spain, France, Guatemala, Italy, the Netherlands, Portugal, Salvador, Servia and Switzerland, for the protection of industrial property, the undersigned Plenipotentiaries have agreed upon as follows:

1. The words *industrial property* are to be understood in their

broadest acceptation, in the sense that they apply not only to the products of Industry, properly speaking, but also to products of agriculture (wines, grain, fruits, cattle, etc.) and to mineral products delivered to Commerce (mineral waters, etc.).

2. Under the name of Patents of Invention, are comprised the different kinds of industrial Patents admitted by the legislations of the contracting States, such as Patents of importation, Patents of improvement, etc.

3. It is mentioned that the final stipulation of Article 2 of the Convention is in no way prejudicial to the legislation of each of the contracting States, as regards the procedure practiced before the Courts and the competency of those Courts.

3<sup>a</sup>. The Patentee, in each country, can only have his Patent forfeited, on account of its not having been worked, after a minimum delay of three years, lasting from the application in the country in question and in case the Patentee does not justify the causes of his inaction.

4. The first paragraph of article 6 is to be understood in the sense that no trade mark can be excluded from protection in any of the States of the Union, by the fact alone, that it does not comply from the point of view of the signs of which it is composed, with the conditions of the legislation of that State, provided it complies on that point, with the legislation of the country of its origin and it has been duly registered in the latter country. Saving this exception, which only concerns the form of the Mark and under reserve of the stipulations of the other Articles of the Convention, the interior legislation of each of the States will be applied in each case.

In order to avoid all false interpretation, it is understood that the use of public armorial bearings and insignia may be considered as contrary to public order, in the sense of the final paragraph of article 6.

5. The organization of the special service of Industrial Property, mentioned in Article 12, will comprise as far as possible the publication in each State, of an Official Periodical Paper.

6. The expenses of the International Office instituted as per article 13, will be borne mutually by the contracting States. They are not, in any case, to exceed the sum of sixty thousand francs per year.

In order to determine the contributive portion of each of the

States towards the total sum of the expenses, the contracting States and those that will ultimately become members of the Union, will be divided into 6 classes, each contributing in the proportion of a certain number of units, viz.:

|                |           |                |           |
|----------------|-----------|----------------|-----------|
| 1st class..... | 25 units. | 4th class..... | 10 units. |
| 2nd " .....    | 20 "      | 5th " .....    | 5 "       |
| 3rd " .....    | 15 "      | 6th " .....    | 3 "       |

These coefficients will be multiplied by the number of the States of each class and the sum of the products thus obtained, will supply the number of units by which the total expense is to be divided. The quotient will give the amount of the outlay unit.

The contracting States are classed as follows, in view of the division of the expenses:

|                           |                                   |
|---------------------------|-----------------------------------|
| 1st class. France, Italy. | 4th class. the Netherlands.       |
| 2nd " . Spain.            | 5th " .. Servia.                  |
| 3rd " { Belgium, Brazil,  | 6th " .. Guatemala, Salvador (1). |

{ Portugal, Switzerland.

The Swiss administration supervises the expenses of the International Office, advances the needful funds and makes up the yearly account, which will be forwarded to all the other Administrations.

The International Office will centralize the information of whatever nature with reference to the protection of international property and will combine same into General Statistics to be distributed to all the administrations. It will study the common usefulness which interests the Union and will draw up, with the aid of the documents which are placed at its disposal by the different administrations, a Periodical in the French language, on the questions concerning the object of the Union.

The numbers of the Periodical, the same as all documents published by the International Office, will be distributed amongst the Administrations of the States of the Union in proportion to the number of the above mentioned contributive units. Any supplementary copies and documents, which may be asked for, either by the said Administrations, or by Societies or individuals, will

(1) Guatemala and Salvador are no longer Members of the Union. On the other hand the States which have become Members since 1883, have been ranked at their request in the following classes: Denmark, 4th class; Republic of Domingo, 6th class; United States of America, 1st class; Great Britain, 1st class; Japan, 2nd class; Norway, 4th class; Sweden, 3rd class; Tunis, 6th class.

be paid for apart. The International Office must hold itself always at the disposal of the Members of the Union, in order to supply to them on the questions relating to the International service of Industrial Property, the special information which they may require.

The Administration of the country where the next Conference is to be held, will prepare with the assistance of the International Office the work of that Conference.

The Manager of the International Office will assist at the sittings of the Conferences and will take part in the discussions, however without deliberative vote. He will make a yearly report about his management, which will be communicated to all the members of the Union.

The Official language of the International Office will be the French language.

7.—The present Closing Protocol, which will be ratified at the same time as the convention concluded on this day's date will be considered as forming an integral part of this Convention and will have the same force, value and duration.

In witness whereof the Undersigned Plenipotentiaries have drawn up this present Protocol.

## II. ARRANGEMENT OF APRIL 14, 1891.

Concerning the International Registration of Commercial and Manufacturing Trade Marks with the alterations and additions made therein by the Brussels Conference.

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### ARRANGEMENT:

Signature, April 14, 1891, at Madrid.

Deposition of ratifications, June 15, 1892, at Madrid.

Coming into force, July 15, 1902, at Madrid.

### SUPPLEMENTARY ACT:

Signature, December 14, 1900, at Brussels.

Deposition of ratifications (closure of official report), June 14, 1902, at Brussels.

Coming into force, September 14, 1902.

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## List of States Which Are Members of the Restricted Union.

BELGIUM, since the arrangement came into force.

SPAIN, since the arrangement came into force.

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FRANCE, with Algeria and colonies, since the arrangement came into force.

SWITZERLAND, since the arrangement came into force.

TUNIS, since the arrangement came into force.

HOLLAND, with the Dutch East Indies, Surinam and Curaçao, from March 1, 1893.

PORTUGAL, with the Azores and Madeira, from October 31, 1893.

ITALY, from October 15, 1894.

BRAZIL, from October 3, 1896.

The undersigned Plenipotentiaries of the States enumerated above and in virtue of Article 15 of the International Convention dated March 20th, 1883, for the protection of industrial property, have by mutual agreement, subject to ratification, concluded the following arrangement.

Article 1.—The subjects or citizens of each of the contracting States may insure in all the other States the protection of their manufacturing or commercial Trade Marks which have been accepted and deposited in the country of their origin subject to the said Marks being deposited at the International Bureau in Berne through the agency of the Government of the said country of origin.

Article 2.—The subjects or citizens of other States which have not joined in the present arrangement are on the same footing as the subjects or citizens of the contracting States provided that they, on the Territory of the restricted Union constituted by the said arrangement, satisfy the conditions set forth in article 3 of the general Convention.

Article 3.—The International Bureau will at once register the Marks deposited in accordance with Article 1, and will give notice of such registration to the contracting States. The marks so registered will be published in a supplement to the Journal of the International Bureau by means of a block furnished by the depositor.

If the deponent claims the color to be a distinctive feature of his Mark he shall be bound:

1. To declare this and to attach to his deposit a description in which the color is mentioned.

2. To attach to his claim copies of the said Mark in colors which will be attached to the notifications made by the Inter-

national Bureau. The number of these copies will be fixed by the regulation as to the manner of execution. In view of the publicity to be given in the various States to the registered Marks each Administration will receive gratis from the International Bureau as many copies of the above mentioned publication as it may choose to ask for.

Article 4.—Dating from the date of registration so effected at the International Bureau the protection in each of the contracting States will be just the same as if the Mark had been first deposited in such State.

Article 4a.—When a Mark, already deposited in one or more of the contracting States, has been afterwards registered at the International Bureau in the name of the same holder or his representative, the International registration will be considered as substituted for the earlier National registrations without prejudice to any rights acquired in connection with the latter.

Article 5.—In those countries where the laws authorize it, the Administrations to whom the International Bureau shall notify the registration of a Mark, shall be entitled to declare that protection cannot be granted to this Mark in their Territory. Such refusal cannot be disputed except under the conditions applicable, in virtue of the Convention of March 20, 1883, to a Mark deposited for National registration.

They must exercise this power within the period fixed by their National law and at latest, within the year of the notification mentioned in article 3 stating at the same time to the International Bureau the motives for their refusal.

The said declaration so notified to the International Bureau will be at once forwarded by the latter to the Administration of the country of origin and to the owner of the Mark. The party interested will have the same means of appeal as if the Mark had been directly deposited by him in the country where protection is refused.

Article 5a.—The International Bureau will deliver to any person making the request, subject to a fee fixed by regulation, a copy of the memoranda entered in the Register relating to any particular Mark.

Article 6.—The protection resulting from registration at the International Bureau will last 20 years from the date of registration but may not be claimed on behalf of a Mark no longer under legal protection in the country of origin.

Article 7.—Registration may always be renewed in accordance with the provisions of articles 1 and 3. Six months previous to the expiration of the period of protection the International Bureau will give official intimation thereof to the Administration of the country of origin and the owner of the Mark.

Article 8.—The Administration of the country of origin will fix at its pleasure and collect on its own behalf a fee to be claimed from the owner of the Mark who asks for International registration. To this fee will be added an International charge of 100 francs for the first Mark and 50 francs for every other Mark deposited at the same time by the same owner. The annual proceeds of this charge will be divided equally among the contracting States through the agency of the International Bureau after deduction of the common expenses necessary for the execution of this agreement.

Article 9.—The Administration of the country of origin will notify to the International Bureau any annulations, erasures, renunciations, transmissions and other changes, that may take place in the ownership of the Mark.

The International Bureau will register these alterations and give immediate notice thereof in its Journal to the contracting Administrations and the public.

Article 9a.—When a Mark entered in the International Register is transmitted to a person settled in a contracting State other than the country of origin of the Mark, the transmission shall be notified to the International Bureau by the Administration of the said country of origin. The International Bureau shall register the transmission and after receiving the assent of the Administration to which the new holder is subject it will give notice thereof to the other Administrations and publish the same in its Journal.

It is not the purpose of this provision to modify the law of the contracting State which prohibits the transfer of the Mark unless accompanied by the simultaneous cession of the industrial or commercial concern whose products it distinguishes.

No transmission will be registered of any Mark entered on the International Register if made in favor of a person not established in one of the signatory countries.

Article 10.—The Administrations will settle by mutual agreement the details relating to the execution of the present arrangement.

Article 11.—The States of the Union for the protection of industrial property which have not taken part in the present arrangement will be allowed on their request to join the same in the form provided by article 16 of the Convention of March 20th, 1883, for the protection of industrial property.

As soon as the International Bureau is informed that a State has joined the present arrangement it will forward to the Administration of such State in conformity with article 3 a complete list of the Marks then enjoying International protection.

This list will of itself ensure for the said Marks the benefit of previous regulations in the Territory of the State so joining and will involve the delay of one year during which the Administration interested may make the declaration provided in article 5.

Article 12.—The present arrangement will be ratified and the ratifications of the same exchanged at Madrid within a period of six months at latest.

It will come into force in one month from the exchange of ratifications and shall have the same force and duration as the Convention of March 20th, 1883.

In witness whereof the Plenipotentiaries of the States above enumerated have signed the present arrangement.

### III. REGULATION.

#### For the Execution of the Arrangement of April 14, 1891, Concerning the Registration of Industrial or Commercial Trade Marks.

(Text Approved by All the Administrations in 1903.)

Article 1.—All requests for the purpose of securing the International registration of an industrial or commercial Trade Mark

in virtue of the arrangement of April 14th, 1891, revised December 14th, 1900, must be addressed by the owner of the Mark to the Administration of the country of origin in the form which the latter may prescribe.

The Administration of the country of origin will fix at its pleasure and collect a fee the amount of which will remain in its possession. To this fee will be added an International charge fixed as follows:

1. In the case of the deposit of a single Mark, one hundred francs.
2. In the case of several deposits, one hundred francs for the first Mark and fifty francs for each of the other Marks deposited at the same time by the same owner.

Article 2.—After having ascertained that the Mark is properly registered, the Administration of the country of origin will forward to the International Bureau of Industrial Property in Berne:

A.—A request for registration, in duplicate, containing a typographical representation of the Mark, and stating:

1. The name of the owner of the Mark.
2. His address.
3. The manufactures or goods to which the Mark applies.
4. The date of registration in the country of origin.
5. The order number of the Mark in the country of origin.

B.—A block of the Mark for the typographical reproduction of the latter in the publication which will be made of it by the International Bureau. This block must reproduce the Mark exactly, so as to show up all details in the most conspicuous manner. It must not be less than 15 millimetres or more than 10 centimetres, either in length or breadth. The exact thickness of the block must be 24 millimetres corresponding to the height of the printed characters. This block will be kept at the International Bureau.

C.—If the deponent claims the color as a distinctive feature of his Mark 40 copies on paper of a colored reproduction of the Mark.

In this case the request must contain a brief description in

French mentioning the color. Should neither one or other of the above mentioned conditions be observed, the International Bureau will proceed with the registration of the Mark and notification thereof in accordance with the particulars received.

D.—A postal order for the amount of the International charge.

The request for registration will be drawn up in accordance with the form attached to the present regulation or any other form which the Administrations of the contracting States may by common agreement subsequently adopt. The International Bureau will forward the necessary forms to the Administrations gratuitously.

Article 3.—The International Bureau will proceed without delay to enter the Mark in a register kept for that purpose. This register will contain the following particulars:

1. The date of registration at the International Bureau.
2. The date of notification to the contracting Administrations.
3. The order number of the Mark.
4. The name of the owner of the Mark.
5. His address.
6. The manufactures or goods to which the Mark is applied.
7. The country of origin of the Mark.
8. The date of registration in the country of origin.
9. The order number of the Mark in the country of origin.
10. Memoranda relating to refusal of protection, transmission (Art. 9 and 9 *bis* of the arrangement) or erasure of the Mark.

Article 4.—As soon as the entry is made in the register the International Bureau will certify on the two copies of the request that the registration has been duly effected and will affix thereon its signature and seal. One of these copies will be filed among the records of the Bureau and the other will be returned to the Administration of the country of origin.

Furthermore, the International Bureau will notify to the Administrations the registration so effected by sending to each of them a typographical reproduction of the Mark and informing them of:

1. The date of registration at the International Bureau.
2. The order number of the Mark.
3. The name and address of the deponent.
4. The manufactures or merchandise to which the Mark is applied.
5. The country of origin of the Mark as well as the date of registration and order number in the said country.

In the case provided by article 2 under letter C, the aforesaid notification shall mention, in addition, the deposit in colors, and will be accompanied by a copy of the reproduction of the Mark in colors.

Article 5.—The International Bureau will then see to the publication of the Mark in a supplement of its Journal which will consist of the reproduction of the Mark accompanied by the details mentioned in article 4, paragraph 2; and, if necessary, the description provided under letter C of article 2.

At the commencement of every year the International Bureau will issue a table giving in alphabetical order per contracting State the names of the owners of the Marks published during the course of the previous year.

Each Administration will receive gratuitously from the International Bureau the number of copies it may choose to ask for of the supplement containing the publications relating to International Registration.

Article 6.—The declaration notified to the International Bureau in the terms of article 5 of the arrangement (non-admission of the Mark to protection in a given country) will be at once forwarded by the Bureau to the Administration of the country of origin and to the owner of the Mark.

Article 6 *bis*.—The fee provided under Article 5 *bis* of the arrangement for copies or extracts from the register is fixed at two francs per copy or extract.

Article 7.—Such changes as may have taken place in the ownership of a Mark and which have been made the object of the modification mentioned in Article 9 and 9 *bis* of the arrangement, will be entered in the Register of the International Bureau except in such cases where, in the terms of the third paragraph of

the latter article, transmission cannot be registered. The International Bureau will in its turn notify to the contracting Administrations the registered alterations, and will publish them in its journal keeping in view the provisions of the first paragraph of article 9 *bis* when the new owner is established in a contracting State other than the country of origin of the Mark.

Article 8.—Six months before the expiration of the period of protection of twenty years the International Bureau will send an official notice to that effect to the Administration of the Country of Origin and the owner of the Mark.

The formalities to be observed in the renewal of the International Registration will be the same as if it were a question of a new registration excepting that it will no longer be necessary to send a block.

Article 9.—At the commencement of each year the International Bureau will make out a statement of charges of all kinds which have been occasioned during the previous year by the International Registration of Marks. The amount of these charges will be deducted from the total sums received from the Administrations by way of fee for International Registration and the excess of receipts will be divided in equal shares between all the contracting States.

Article 10.—The complete list prescribed by article 11 of the arrangement will contain the same particulars as the notification under article 4 of the present regulations.

Article 11.—The present regulation will continue in force for the same length of time as the arrangement to which it refers.

The contracting Administrations may at any time introduce therein by mutual agreement such modifications as may seem necessary to them in accordance with the provisions of article 10 of the said arrangement.

#### IV. ARRANGEMENT OF APRIL 14, 1891,

##### Concerning the Suppression of False Statements of Origin of Merchandise.

Signature..... April 14th, 1891, at Madrid.

Deposit of ratifications..... June 15th, 1892, “

Coming into force..... July 15th, 1893.

## LIST OF MEMBERS OF THE RESTRICTED UNION.

SPAIN, FRANCE, with ALGERIA and COLONIES, GREAT BRITAIN, SWITZERLAND, and TUNIS, since the arrangement came into operation; PORTUGAL, with the AZORES and MADEIRA, since October 31st, 1893; BRAZIL, since October 3rd, 1893.

Article 1.—All products bearing a false statement of origin in which one of the contracting States or some locality situated in one or other of them is mentioned directly or indirectly as the country or place of origin shall be seized on importation into any one of the said States.

The seizure may also be effected in the State where the false declaration of origin may have been affixed, or in that State into which the product bearing such false declaration shall have been introduced.

If the laws of a State do not allow of the seizure on importation, such seizure to be substituted by a prohibition to import.

If the laws of a State do not allow of a seizure inland, such seizure to be substituted by acts and measures which the laws of the said State provide in such cases for the benefit of natives.

Article 2.—The seizure will be made either at the request of the proper public officer or an interested party, individual or company, in accordance with the internal laws of each State.

The authorities shall not be called upon to effect the seizure during transit.

Article 3.—The present provisions do not prevent the seller putting his name or address on the products coming from a country other than that of sale, but in that case, the address or name must be accompanied by a precise statement in conspicuous characters of the country or place of manufacture or production.

Article 4.—The Tribunals of each country will have to decide what are the appellations which, from their generic character, are outside the provisions of this arrangement, the district appella-

tions of the origin of wine products not being, however, included in the reservation laid down by this article.

Article 5.—The States of the Union for the protection of Industrial Property which have not taken part in the present arrangement will be admitted at their request to join the same in the form prescribed by article 16 of the Convention of March 20th, 1883, for the protection of industrial property.

Article 6.—The present arrangement will be ratified and the ratifications of the same exchanged at Madrid within a period of six months at the latest.

It will come into operation in one month from the date of the exchange of ratifications and will have the same force and duration as the Convention of March 20th, 1883.

In witness whereof the Plenipotentiaries of the States enumerated above have signed the present arrangement.

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## FOREIGN PATENTS.

### MARKING ARTICLES "PATENTED."

In Canada the neglect to mark a patented article subjects the patentee to a heavy fine—in Mexico, Switzerland and Japan to a forfeiture of certain rights. In no other country is such marking compulsory.

Patented articles should be marked as follows:

|          |  |
|----------|--|
| AUSTRIA. | "O. P. Nr._____."                                      |
| BELGIUM. | "Bte. No._____."                                       |
| CANADA.  | "Patented," followed by the year.                      |
| DENMARK. | "Dansk Patent No._____."                               |
| FRANCE.  | "Bte S. G. du G."                                      |
| GERMANY. | "D. R. P. No._____, " if for a Patent of invention.    |
| GERMANY. | "D. R. G. M. No._____, " if for a Useful Model Patent. |

### GREAT BRITAIN AND COLONIES.

|         |                                   |
|---------|-----------------------------------|
| HUNGARY | "Patent No._____, " and the year. |
| ITALY.  | "Ung. P. No._____. "              |

Att. wherein the Patent is entered and the year. For instance, "Brevetato R. A. Vol. XXX, Fol. 30."

|                                      |   |
|--------------------------------------|---|
| JAPAN.                               | Patent date and number in Japanese language.    |
| LUXEMBURG.                           | "Luxbg. Pat. No._____."                         |
| NORWAY.                              | "Norsk Pat. No._____."                          |
| PORTUGAL.                            | "Privilegiado Pat. No._____."                   |
| RUSSIA.                              | "Patent No._____” (in the Russian language).    |
| SPAIN.                               | "Patentado en Espana No._____."                 |
| SWEDEN.                              | "Svenskt Pat. No._____."                        |
| SWITZERLAND.                         | Federal Cross and number of patent.             |
| SOUTH AMERICAN COUNTRIES AND MEXICO. | "Privilegiado en (name of country), No. _____." |

## ARGENTINE REPUBLIC

### PATENT LAW OF OCTOBER 11, 1864.

#### TITLE I.

##### *General provisions.*

ARTICLE 1. All new discoveries or inventions in any branch of industry confer on their originators the exclusive right of working the same during a fixed term and under certain conditions, conformably to article 17 of the Constitution, said right to be protected by a document called "patent of invention," issued in the form provided by the present law.

ART. 2. The preceding article applies not only to inventions and discoveries made in this country, but also to those patented abroad, provided that the applicant be the inventor, or his assignee, and provided also that the conditions and formalities mentioned hereafter be duly observed.

ART. 3. The following shall be considered as new discoveries or inventions, viz.: All new products of industry; all new processes, and all new applications of processes already known, for obtaining an industrial result or product.

ART. 4. The following are not patentable, viz., pharmaceutical compositions; financial schemes; discoveries or inventions which, previous to the application, have received sufficient publicity in books, pamphlets, or periodicals, in this country, or abroad, for being worked; those of a mere theoretical nature, without any indication of their practical use in industry; and finally, inventions contrary to good morals, or to the laws of the Republic.

ART. 5. Patents shall be granted for five, ten, or fifteen years, according to the merit of the invention and the wish of the applicant. The validation of foreign patents shall be limited to ten years, and in no case shall the term exceed that of the original patent, at the expiration of which period they shall terminate.

ART. 6. The fee to be paid for a new patent shall be 80, 200, or 350 pesos fuertes, according to the period or term of five, ten, or fifteen years for which it is issued. The validation of foreign patents is subject to the payment of a sum proportional to the term for which it is granted according to the same scale of fees.

ART. 7. The payment of the fees shall be made, one-half at the time of the application and the other half in annual installments.

ART. 8. The Executive Power shall provide by a special decree the mode in which the Patent Office shall transfer the said fees to the Public Treasury.

## TITLE II.

### *Patent Office.*

ART. 9. The patents mentioned in the preceding articles shall be issued by an Office especially established for that purpose.

ART. 10. The official staff of the Patent Office is to be composed of a Commissioner, at a salary of 1,200 pesos fuertes per annum, of four Subcommissioners, at a salary of 800 pesos fuertes per annum; of a Secretary, at a salary of 600 pesos fuertes per annum; and a Janitor, at a salary of 240 pesos fuertes per annum. The five first named are appointed by the President of the Republic at his own discretion; and the other two on recommendation of the Commissioner.

ART. 11. No officer of the Patent office is allowed to hold an interest, directly or indirectly, in patents which come under his control; otherwise he shall become liable to dismissal and to a fine from 100 to 1,000 pesos fuertes, if convicted.

ART. 12. The Commissioner is the Chief of the Office and is responsible to the Government for all the documents and objects deposited in it, which must be carefully kept and inventoried.

ART. 13. The Subcommissioners must possess a special knowledge of the sciences frequently applied to industry, which may enable them to examine, under the direction of the Commissioner, all inventions or discoveries sought to be patented, the grant of the patent depending on said examination.

ART. 14. The Patent Office shall be a dependency of the Department of the Interior.

### TITLE III.

#### *Proceedings for granting patents.*

##### FIRST SECTION.

ART. 15. All applications for patents of invention shall be addressed to the Commissioner of Patents. The application shall be written on stamped paper of the 25-cent class, and shall be filed at the Patent Office in the capital, or at one of the chief post-offices in the provinces and must be accompanied by a description, with proper drawings and patterns (all in duplicate), and a list of the objects presented.

ART. 16. In cases where the application is made through the post-office, applicants may inclose the descriptions, patterns, and drawings in a sealed package, and request the same to be safely forwarded, at their own cost, to the Patent Office.

ART. 17. The Commissioner of Patents shall provide the post-masters mentioned in article 15 with a ledger, duly paginated and signed, in which the petitions shall be entered in the order of their presentation, with expression of the day and hour. A similar book shall be kept at the Patent Office. The registration shall be made by stating in a few words the subject of the application, the entry to be signed by the Commissioner, the Secretary, and the applicant or his attorney. At the request of the applicant, a copy of this entry may be delivered to him at no other cost than that of the stamped paper of the fourth class on which it has to be written.

ART. 18. No application shall be admitted without depositing one-half of the fee, this payment to be set forth in the entry mentioned in the foregoing article. The officer neglecting to com-

ply with this requisite and admitting the application without receiving the money, shall be punished with a fine of double the amount. The same fine shall be imposed upon postmasters who neglect to forward applications to the Commissioner of Patents by the earliest mail, this fact to be proved by the certificate of deposit and a certificate of the Postmaster-General, unless the delay is caused by want of time, accidents, or circumstances beyond control.

ART. 19. Applications shall refer to a single chief object, with its accessories and to the uses to be made thereof; they must mention the term for which the patent is sought, without containing any restrictions, conditions, or reservations whatsoever; they shall set forth the title under which the invention is to be known; they shall be written in Spanish; the omissions or additions shall be duly mentioned, and the drawings accompanying the applications shall be made in ink and according to a metrical scale.

#### SECOND SECTION.

ART. 20. As soon as the application is in the hands of the Commissioner, and it appears that the object applied for is included in those mentioned in article 2, and does not come under the limitation of article 4, the patent shall be granted, provided the term applied for does not exceed ten years. If it exceeds that time, the application shall be referred to the Minister of the Interior for his decision, from which decision there lies no appeal.

ART. 21. All patents shall be issued in the name of the nation, by authority of the Government; they shall bear the signature of the Commissioner and Secretary, with the seal of the Office; they shall consist of the decree granting them, accompanied by the duplicate of the description and drawings.

ART. 22. Immediately after the issue of the patent it shall be delivered to the applicant or his attorney. However, if the application has been made through a post-office, the patent shall be delivered by the same channel, the respective postmasters having to acknowledge the receipt as soon as possible. All subsequent certificates applied for shall be issued at the rate of 5 pesos fuertes each.

ART. 23. The grant of a patent does not prevent impeachment under article 46 of this law.

ART. 24. Applicants not complying with the provisions of

article 15 shall have their patents refused, in which case one-half of the sum deposited shall be returned to them, the other half being forfeited.

ART. 25. On the refusal of a patent an appeal may be taken within ten days to the Minister of the Interior, who, after proper investigation, shall confirm or annul the refusal; in the former case the whole sum deposited is to be forfeited.

ART. 26. A quarterly list of all patents granted and refused, with their respective dates, shall be forwarded by the Commissioner to the Government for publication.

### THIRD SECTION.—*Additions or improvements.*

ART. 27. Improvements to patented discoveries or inventions entitle the originators to apply for a certificate of addition, which can not be granted for a longer period than the original patent has yet to run, provided it does not exceed ten years, except when half that time has expired or when the improvement lessens by half at least the cost of production, time, risk, or danger, or for other similar reasons, in which case the Commissioner has to fix the proper term for which such a patent may be granted.

ART. 28. Certificates of addition are subject to the same formalities as patents, except as to the fees, the original patentee having only to pay one-fourth, and others than the patentee one-half, of the said fees.

ART. 29. Certificates of addition thus obtained by others than the original patentee do not confer on their owners the exclusive right of working their invention, except on condition to pay a royalty to the original inventor. The amount of this royalty shall be fixed by the Commissioner by taking into account the importance of the improvement and the part of the original invention which has been left in existence.

ART. 30. The original inventor has the option between availing himself of the provision contained in the preceding paragraph and working the improvement jointly with the improver; if he chooses the latter, a "patent of addition" shall be delivered to him on the same terms as that to the improver.

ART. 31. In no case shall improvers acquire the right of solely working the original invention, and the original inventor may only work the improvement under the second provision of the previous paragraph.

ART. 32. If two or more parties should apply at the same time for a certificate of addition for the same improvement, and if they should not come to some arrangement on the subject, no certificate shall be issued to either. The same provision applies also to patents.

FOURTH SECTION.—*Provisional patents.*

ART. 33. Inventors or improvers may obtain for the term of one year, indefinitely renewable, a provisional patent.

ART. 34. Such a patent shall be obtained, on the payment of 50 pesos fuertes, by petition drawn up according to the provisions of article 15, pointing out the object of the invention and the means of carrying it out.

ART. 35. On the receipt of this petition the Commissioner shall deliver the provisional patent, entering the same in a special book to be kept in his custody in the secret archives, together with all the documents relating thereto.

ART. 36. No provisional patent shall be granted for inventions prohibited by article 4.

ART. 37. The effect of provisional patents is to prevent, while they are in force, all grants of patents relating to the same invention or improvement from being made without previous notice thereof to the patentee, whose address should be known at the office.

ART. 38. The owner of a provisional patent may oppose the granting of a patent for an invention similar to his own, within three months. At the expiration of that term, or if he has not given due notice of his change of domicile, he shall forfeit his right.

ART. 39. In case of opposition by the owner of a provisional patent the Commissioner shall give a separate hearing to both applicants, and if the inventions should be identical neither shall obtain a patent unless both parties come to an agreement. Should such inventions be different the patent applied for shall be granted.

ART. 40. The fees paid for a provisional patent shall be deducted from the sum to be paid for the final patent, or for a certificate of addition previously obtained.

## TITLE IV.

FIRST SECTION.—*Transfers of patents.*

ART. 41. Owners of patents or certificates may transfer their rights on their own terms. Such transfers, however, must be made by a public deed, upon previous payment of the entire fees mentioned in article 6. In order to give such transfers legal force with respect to third parties they must be registered either at the Patent Office in the Capital, or at the before-mentioned post-offices in the provinces; but this registration shall never be made without first producing the deed of transfer and the patent. Within five days thereafter, or by the earliest mail if in the provinces, a certificate of the registration entry and a copy of the transfer shall be forwarded to the Patent Office. The transfer shall then be entered at this office, in a special book, the entries of which shall be published quarterly.

ART. 42. All the rights of the original patentee shall be transferred with the patent, unless otherwise provided in the deed.

SECOND SECTION.—*Publication of patents.*

ART. 43. On the issue of a patent or certificate the Commissioner shall publish the fact in the newspapers, setting forth the name of the patentee, the duration of the patent, and a succinct description of the invention or discovery.

ART. 44. All descriptions, drawings, patterns, and models of the patents granted not coming under the provision of article 33 shall be kept at the Patent Office for public information. They shall be open without charge to inspection by any person applying for the same, and copies of the written documents shall be delivered without any other charge than the price of the stamped paper of the fourth class which is to be used.

ART. 45. At the beginning of each year the Commissioner of Patents shall publish in a volume the list of the patents granted during the last twelve months, said list to be accompanied by the descriptions and drawings required to make the patented inventions or discoveries intelligible. A copy of the said volume shall be deposited at the Patent Office and at the post-offices mentioned in article 15, for free public inspection.

## TITLE V.

*Nullification and extinction of patents.*

ART. 46. Patents or certificates shall be void: When obtained contrary to article 4 of this law; when obtained under a fraudulent title, not corresponding to the invention; when the drawings or descriptions are incorrect or incomplete; when, in the case of certificates, they refer to a patent not actually obtained; when, in case of a foreign invention, the foreign patent confirmed by the Republic has expired; or, when, at the date of the patent the discovery or invention was already in operation in the Republic.

ART. 47. All patents duly issued become extinct whenever it appears that the invention has not been worked within two years after the issue of the patent; whenever the working has been interrupted for a similar period, except by circumstances beyond control, or accident, duly certified by the office; or, finally, when the term for which the patent has been granted expires.

ART. 48. Actions for the nullification or extinction of a patent can be instituted only by interested parties before the sectional tribunals.

ART. 49. No special judicial declaration is required to cause the nullification or extinction of a patent to produce the effect of making the discovery or invention public property; the mere fact of nullification or extinction suffices for authorizing everyone to freely exploit the patented articles.

ART. 50. In case the owner of an extinct or nullified patent should obstruct the free exploitation of the invention or discovery to which it relates, either by lawsuits, or otherwise, the official declaration of the invalidity or extinction of the patent may be obtained from the same sectional tribunals.

ART. 51. The proceedings shall be summary; all proper proofs of title shall be admitted, but patentees can not produce any evidence contrary to what is established by the documents of the Patent Office in proof of their privileges. The term for filing evidence is to be fixed by the judge at his discretion, provided that it does not exceed six months, which term shall be granted only, in exceptional cases referring to matters lying beyond the sea, and on giving sufficient security in favor of the claimant. Within ten days of the expiration of the term allowed for evidence, the judge shall render judgment and award costs. From this

judgment an appeal can be taken to the Supreme Court within three days. This court, after previously consulting the Patent Office, shall deliver a final judgment.

ART. 52. The nullification or extinction of a patent being established by judgment, and the judgment having become final, the tribunal shall give information of the fact to the Commissioner of Patents in order that he may publish it in due form.

## TITLE VI.

### *Infringements, their prosecution, and punishment.*

ART. 53. Infringements of patent rights shall be considered forgeries, and shall be punished by a fine of from 50 to 500 pesos fuertes, or by imprisonment of from one to six months, and the forfeiture of the articles unlawfully manufactured, all without prejudice of claiming indemnity for losses and damages.

ART. 54. The same penalties shall be incurred by those who knowingly take part in the infringement by selling, exhibiting, importing, or advertising the invention.

ART. 55. In case of a second offense, committed within five years, the penalty shall be doubled.

ART. 56. The fact of a man having been in the employ of the patentee, or of having acquired surreptitious information of the invention, shall be considered as an aggravating circumstance.

ART. 57. All actions for the prosecution of these offenses are private, and shall be brought before the sectional tribunals upon production of the patent. Otherwise the complaint shall not be admitted. The defendant can only plead by way of answer the nullity or extinction of the patent, his interest in the same, or his exclusive ownership.

ART. 58. The complainant has the right to demand security from the defendant for any loss which may be occasioned by the latter continuing to work the invention pending the trial, and in default thereof, he may claim the suspension of the working and the seizure of the objects in dispute upon giving in his turn, to the defendant, if required, sufficient security. The seizure is to be effected with the usual legal forms.

ART. 59. All those who call themselves patentees without having a patent, or after their patent has expired, shall be considered infringers, and liable therefore to the penalties inflicted on the latter, with the exception of the loss of the articles.

ART. 60. All fines imposed by this law shall be divided equally between the Treasury and the informers.

## TITLE VII.

### *Validation of provincial patents.*

ART. 61. Owners of provincial patents in force at the time of the promulgation of the present law shall have the right to ask, within six months after said promulgation, the validation of the same; and to this effect they shall file an application in the manner and form provided by article 15. The application shall be accompanied by the provincial patent.

ART. 62. Provincial patents not validated within said term shall have no effect whatever before the tribunals of the Republic.

ART. 63. The validation may take place in two ways; either for the same Province in which the patent right was exercised; or for the whole Republic. In the former case the patent shall be granted free of expense and without any previous examination. In the latter case the proceedings shall be the same as for a new patent, and the portion of the fees corresponding to the term allowed must be paid in the usual way.

ART. 64. Validation of patents granted for the same Province shall be only for the remainder of the term of the patent, and the patent rights conferred by it shall relate to the said Province only. When granted for the whole Republic the time may be ten years, from which the period already run shall be deducted.

ART. 65. A special register of these validations there shall be kept.

ART. 66. On and after the promulgation of the present law all provisions to the contrary shall be repealed.

## DECREE FACILITATING THE PAYMENT OF THE ANNUITIES ON PATENTS OF INVENTION.

BUENOS AYRES, November 4, 1903.

Upon consideration of the facts:

First. That article 7 of the patent law of October 11, 1864, in providing that the first half of the tax fixed by article 6 of the same should be paid upon making the application for patent, and

the other half by successive annuities, had for its object to afford to inventors a facility that has been approved by the universal legislation on the matter;

Second. That the decree of November 9, 1866, which is at present in force, has left without effect said concession by establishing that for the annuities corresponding to the second half of the tax, the interested parties should give promissory notes to the satisfaction of the Commissioner of Patents (arts. 24 and 25);

Third. That such restrictions virtually compel the applicants to the integral and advanced payment of the second half of the tax—an inconvenience to which the applicants submit themselves because it is easy for them to give notes of such scant importance and at such long times as those fixed by article 25, than to look for endorsers or sureties, the chief aim of the patent law, which is, without a doubt, that of encouraging both inventions and the establishment or progress of industries, and not that of providing revenue, being thus defeated.

Fourth. That in view of the above facts it becomes necessary for the Government to repeal the provisions contained in articles 24, 25, and 26 of the Regulation of November 9, 1866, and to substitute them by others which are more in accordance with the spirit of the law and general public convenience;

In view of the above considerations, and in the exercise of the faculties vested in him by article 8 of the law of October 11, 1864, the President of the Republic decrees:

ART. 1. The provisions of articles 24, 25, and 26 of the regulations of November 9, 1866, are hereby repealed.

ART. 2. The concession having been decided upon by the Commissioner, and the payment of the half of the tax established by article 18 of the law having been made, the patent shall be delivered upon the payment of the proper stamps.

ART. 3. The second half of the tax shall be paid by annuities, in the following manner: In the case of five-year patents, it shall be paid in three annuities of 10 pesos in national money (\$10) each, and the last one shall be of 11 pesos and 33 cents national money (\$11.33). In the case of ten-year patents, the payment shall be made in seven annuities of 10 pesos national money (\$10) each, and the last two, of 16 pesos and 66 cents national money (\$16.66) each; and in the case of fifteen-year patents, the pay-

ments shall be made in ten annuities of 10 pesos national money (\$10) each, and the last four annuities shall be of 20 pesos and 21 cents (\$20.21) each.

ART. 4. The payment of the annuities may be made by any person in the name of the inventor, no written petition being required in order to effect said payment. Whenever the person making the payment requests a receipt for the same, it shall be issued to him in the name of the inventor, by the Patent Office, without any other expense than the cost of the stamped paper of the value of 1 peso on which said receipt is to be issued.

ART. 5. The integral payment of the annuities may be made at one time in cash, with a discount of 6 per cent per annum on the annuities not yet due.

ART. 6. The applications for patents pending at the present time shall be decided according to the present decree.

## TRADE MARK LAW.

*[Promulgated November 23, 1900.]*

### TITLE I.

#### *Trade Marks.*

### CHAPTER I.

#### *Ownership of trade marks.*

ARTICLE 1. Denominations of articles, or names of persons in some particular form; emblems, monograms, engravings, or prints; seals, vignettes, and stamps in relief; borders, words, or fancy names; letters and numerals with a special design or forming a combination; casks or wrappings of articles; and any other signs by which the productions of a factory, the articles of a trade, or the products of the soil and agricultural industries can be distinguished, may be used as trade marks.

Marks can also be adopted under the provisions of this law by those engaged in mining industries (industrias extractivas).

ART. 2. The mark can be placed over the casks or wrappings or on the articles themselves.

ART. 3. The following can not be considered trade marks:

1. Letters, words, names, or designations which the nation, or the provinces, alone, use or should use.
2. The shape or form given to the articles by the manufacturer.
3. The color of the articles.
4. Terms or expressions which have become of general use and signs which do not present any novel or special character.
5. Designations usually employed to indicate the nature of the articles or the class to which they belong.
6. Designs or expressions of an immoral nature.

ART. 4. Names and portraits of persons can not be used as marks without the consent of the persons themselves or their heirs to and including the fourth degree.

ART. 5. Names of places belonging to private individuals can be used as marks only by the owners thereof, if such names do not fall under the category mentioned in paragraph 4 of article 3 and if some suitable specification is adopted in order to avoid confusion. Under such conditions names of places and towns can be used as marks.

ART. 6. The exclusive ownership of a mark, as well as the right to oppose the use of any other mark, which directly or indirectly might be the cause of confusion between several articles, belongs to the manufacturer, trader, or agriculturist who has complied with the requirements of this law.

ART. 7. The use of a trade mark is optional. It is, however, compulsory when the necessities of public convenience require it.

ART. 8. The exclusive ownership of a trade mark can only be obtained in relation to the object for which it has been requested, said object to be specified in conformity with paragraph 2 of article 17.

ART. 9. The ownership of a mark passes to the heirs, and can be transferred by deed or by will.

ART. 10. The assignment or sale of a business includes that of the trade mark (unless there is some special stipulation to the contrary), and the person taking over the business has the right to use the mark, even though it be a name, in the same way as did the former owner, without any other restrictions than those expressly stated in the deed of sale or assignment.

ART. 11. The transfer of a trade mark shall be recorded at the office in which it was registered. Otherwise the right to use the mark shall not be acquired.

ART. 12. No other trade marks shall be considered in use, for the purposes of this law, than those in regard to which the office has issued the proper certificate.

ART. 13. The protection of the rights to the exclusive use of a trade mark shall only last ten years, which period can be extended indefinitely for other similar periods, upon fulfillment, in all cases, of the necessary formalities and on payment each time of the tax to be established hereafter.

ART. 14. The ownership of a trade mark shall cease:

1. On the request of the interested party.
2. When the said party allows the period of ten years to elapse without effecting a renewal.

3. When a question as to the validity of a trade mark having been raised, the decision is that it was granted illegally, either because of its clearly belonging to another person or because of some other circumstance enumerated in this law.

ART. 15. When a trade mark is no longer valid the fact must be published in the form indicated in article 37.

## CHAPTER II.

### *Formalities for obtaining the ownership of trade marks.*

ART. 16. All those desirous of obtaining ownership of trade marks must apply to the Office of Patents.

ART. 17. An application to obtain a trade mark must be accompanied—

1. By six copies of the mark.
2. By description, in duplicate, of the mark, if it consists of a picture or an emblem, indicating the class of article for which it is meant, and whether it applies to products of manufacture, or of the soil, or to objects of commerce.

3. By a receipt showing that the fee established in article 38 has been paid into the General Treasury.

4. By a formal power of attorney if the applicant does not appear in person.

5. By the authorization required in article 4.

ART. 18. If the process of imprinting the trade mark is a secret, and the interested parties desire it to remain so, they must declare their wish in their application, according to article 17;

but they shall describe the process in a closed and sealed document, which will only be opened in case of dispute.

ART. 19. A short statement, describing briefly the contents of each application and the date and hour of its presentation, shall be entered on a book, the leaves of which must be numbered and signed by the respective Minister. The applicant must state whether he is or is not willing to waive judicial action in the event of the office opposing or refusing the ownership of the trade mark.

The statement must be signed by the head of the office, by the secretary, and by the applicant, to whom a receipt shall be given of the documents filed, in which case, the number of the statement will be mentioned. In the event of an authorized copy of the statement being applied for, it shall be given without further cost than that of the paper used.

ART. 20. The statement having been drawn up, an extract of the application will be published in the "Boletin Oficial," with the date of its presentation, the name of the person interested, and a drawing or design of the trade mark.

The publication shall be made for five consecutive days in the capital of the Republic, and in the Province or Territory where the applicant has his domicile.

ART. 21. If within thirty days after the publication to which the foregoing article refers, no one presents himself to oppose the concession and no similar or like marks have already been granted under the conditions laid down in articles 6 and 8, the ownership of the mark applied for shall be granted.

ART. 22. The priority of ownership of a trade mark shall be determined by the day and hour on which the application was filed.

ART. 23. The trade mark certificate to be given by the Patent Office shall consist of a certified copy of the decree granting it, accompanied by duplicates of the description and of the drawings. It shall be made out in the name of the nation, by the authority of the Government, and shall bear the signatures of the Chief and of the Secretary of the Office, together with the seal of the latter.

ART. 24. The deposit, as provided for in article 17 (article 13 of the law) shall be made, in the Provinces and National Ter-

ritories, in such post-offices as may be designated by law for this purpose.

ART. 25. The Chief of the Trade Mark Office shall furnish the postmaster of each capital of Province and National Territory a book on which all the trade marks shall be entered, if presented by the interested parties in due form and under the conditions required by law.

ART. 26. The books sent to the postmasters, as well as the one kept in the Trade Mark Office, shall be paginated and signed by the respective Minister.

ART. 27. Upon the receipt of an application the postmaster shall forward to the Director of the Office of Trade Marks a certified copy of the application, together with the descriptions, drawings, and the declaration that the amount required by law has been paid, without which the application shall not be entertained.

ART. 28. The Director of the Office, on receiving an application forwarded to him by a postmaster, shall make an entry in his own book, in which the statement sent him by the postmaster shall be copied. He then shall proceed as provided in the foregoing articles.

The interested parties can deposit in the respective post-offices the plates required by art. 38.

ART. 29. Opposition to the granting of a mark shall be made in the form required by articles 19 and 25, as the case may be.

ART. 30. The head of the office, if all the parties interested have waived their right to go to the courts, shall give a decision in the matter within a period of fifteen days.

ART. 31. In the case referred to in the above article, the decision of the Trade Mark Office, refusing or granting the ownership of a mark, can be appealed within ten days to the respective Minister who, after consulting the Solicitor of the Treasury, shall either affirm or revoke it.

ART. 32. If the interested parties have not waived judicial litigation, the Office shall forward to the competent court certified copies of the record of application for and of opposition to the grant.

ART. 33. On receiving the certified copies referred to in the foregoing article, the court shall conduct the case according to the ordinary judicial modes of procedure.

ART. 34. Independently of the cases of opposition referred to

in the preceding articles the interested party may apply to the courts within the period established in article 31, if the decision of the Director of the Office was unfavorable, and if no waiver of judicial action was made.

ART. 35. In cases in which a trade mark is not granted the fee paid by the interested party under article 17 shall be returned.

ART. 36. Judicial decisions when final shall be communicated to the Office for the proper purposes. The records of each case shall be also sent in due time to the same Office.

ART. 37. The Patent Office shall keep a book in which the grants of trade marks shall be entered, and the Director shall make a report to the Government, every three months, of the applications granted and refused, and their respective dates.

For this purpose the interested parties must deposit in the office a plate (*clisé tipográfico*) of their marks.

ART. 38. Fifty dollars in national currency shall be paid for the registration and certificate of a trade mark, whatever its origin may be.

Twenty-five dollars in national currency shall be paid for the registration and certificates of transfers of the marks.

Five dollars in national currency shall in the future be paid for attested copies of certificates independently of the value of the stamped paper on which they have to be written.

ART. 39. All marks for which certificates have been issued, as well as all the applications and descriptions filed, shall remain in the archives of the Patent Office.

In the event of litigation the drawing of the mark and a certified copy of its description, as well as any other paper bearing on the question, shall be shown to the court.

ART. 40. The marks and their descriptions shall remain in the Office at the disposal of all those who may desire to see them.

ART. 41. Foreign trade marks shall enjoy the guarantees provided for by this law if they are registered in conformity with its provisions.

Their owners, or their duly authorized agents, alone, have the right to apply for their registration.

## TITLE II.

*Names of factories and of commercial and agricultural establishments.*

ART. 42. The name of an agriculturist, trader, or manufacturer, or a firm, and the sign or designation of a business house or establishment dealing in defined articles or products, constitute property within the meaning of this law.

ART. 43. Anyone desirous of engaging in an industry, trade, or branch of agriculture, in which another person is already engaged, under the same name and with the same accepted designation, shall adopt such modifications as will render his name or designation manifestly distinct from that used by the previously existing business or establishment.

ART. 44. If the party injured by the use of a trade mark does not file its complaint within one year after the date of the infringement its action shall be barred by limitation.

ART. 45. Joint stock companies shall have the same right to their names as have private individuals, and shall be subject to the same restrictions.

ART. 46. The right to the exclusive use of a name, as property, becomes extinct as soon as the firm or the industrial or agricultural undertaking to which it belongs, ceases to exist.

ART. 47. The registration of a name is not necessary to secure the rights guaranteed to it by this law, unless it forms part of the trade mark.

## TITLE III.

*Penal provisions.*

ART. 48. The following shall be punishable by a fine of from \$20 to \$500 in national currency, and by imprisonment for a period varying from one month to one year, the corporal penalty not to be redeemed by money:

1. Those who counterfeit a trade mark.
2. Those who use counterfeited marks.
3. Those who fraudulently imitate a mark.
4. Those who knowingly affix a mark not belonging to them, or a fraudulently imitated one, on their products or goods.

5. Those who knowingly sell, place on sale, or lend themselves to the sale or circulation of counterfeited marks, and those who sell authentic marks without the knowledge of the owner.

6. Those who knowingly sell, place on sale, or lend themselves to sell or circulate articles with marks counterfeited or fraudulently imitated.

7. All those who, with intent to defraud, place, or cause others to place, on merchandise or products, any false declaration or designation in regard to the nature, quality, quantity, number, weight, or measure, or in regard to the place or country in which the article was made or from which it was sent. The same provision applies to medals, diplomas, honorable mentions, rewards, or honorary distinctions falsely alleged to have been awarded at Exhibitions or Fairs.

8. All those who knowingly sell, place on sale, or lend themselves to the sale of, merchandise or products with any of the false declarations mentioned in the preceding paragraph. In the event of the offense being repeated the penalties shall be doubled.

ART. 49. In the cases not mentioned in the above article, the penalties shall be, as stated in Titles V and VI, Section 1, Book 1, of the Penal Code.

ART. 50. The offense of counterfeiting or imitating shall be deemed committed, even if all the articles which should have been marked are not counterfeited or imitated. The counterfeiting of one single article shall be sufficient.

ART. 51. Simple attempts to counterfeit or imitate shall not be punished, nor shall they entail civil responsibility; but the counterfeiting instruments which may be found in the possession of the would-be wrong-doer, shall be destroyed.

ART. 52. The proceeds of the fines referred to in this law shall be applied to the school fund of the place where the offense was committed, if a balance is left after the payment of all civil indemnifications.

ART. 53. Merchandise or products unlawfully marked, found in the possession of the culprit or of his agents, shall be confiscated and sold after the destruction of the said mark; the amount realized, after payment of the expenses and indemnity laid down by this law, shall be given in aid of the public schools of the province in which the confiscation took place.

ART. 54. All counterfeited or imitated marks or marks bearing

misleading statements shall be likewise confiscated and destroyed. The same provision shall apply to the instruments which served exclusively for committing offenses.

ART. 55. No civil or criminal action shall be allowed after the lapse of three years from the time when the offense was committed or repeated, or after the lapse of one year from the day on which the owner of the mark had first cognizance of the fact.

The acts which interrupt limitation are the same established by law in all cases.

ART. 56. The provisions contained in the articles of the present title shall be applicable to those persons who, without right, make use of the name of a merchant or of a company, of the sign or designation of a business house or manufactory, of the name of an agriculturist or agricultural establishment, in accordance with what is laid down in Title II of the present law.

#### TITLE IV.

##### *Procedure.*

ART. 57. Owners of trade marks, to whose knowledge it may come that there are to be found in the custom-house, post-office, or any other Government or private office, labels, capsules, wrappers, or any other articles similar to those which constitute or appertain to their mark may apply to the competent authority and ask for an attachment on the said articles, and the court shall grant the request on the responsibility of the petitioner upon his giving such bonds as the court may deem proper.

It shall be optional for the court to exempt the applicant from giving bond when he is a person of well-known responsibility.

ART. 58. Those who sell or place on sale merchandise or products with usurped, imitated, or counterfeited marks are bound to give the real owners of the mark full information in writing as to the name and address of the person who sold to, or got for them the merchandise or products in question, and of the date on which the sales of the same began; and, in case of refusal, they can be compelled judicially to do so under penalty of being considered as accomplices.

ART. 59. Owners of marks which have been usurped, counterfeited or imitated can, without prejudice to what is laid down in the foregoing article and other measures which the criminal court

may take, apply on their own responsibility to the competent judges for the drawing up of an inventory and of a description of the merchandise or goods found with such marks in a place of business or elsewhere. This inventory to be drawn up by a constable of the court, or by any public notary whom the party interested may name, shall give a particular description of the merchandise or products. It shall be signed by the petitioner (if he is present), by the constable of the court, or the notary, and by the owner of the business house, or store, or by two witnesses in his absence.

ART. 60. When several inventories have to be made simultaneously in different places the judge can intrust the matter to some public notary, chosen by the petitioner, or to a commissary of police, and can in all cases ordain, if he thinks it necessary, that the constable of the court, or his substitutes, be accompanied by an expert, who would supervise the description given in the inventory of the merchandise.

ART. 61. If in the act of making the inventory the explanations required by article 58 are given, they shall be put down in the statement.

ART. 62. The certificate of the mark shall be shown before order to make the inventory or attach the property, as provided in the foregoing articles, can be issued.

ART. 63. The attachment shall be removed, if, after fifteen days from its having been ordered, the owner of the mark takes no further action in the matter.

ART. 64. In civil suits, arising under articles 6 and 43, the plaintiff can compel the defendant to give bond not to interrupt him in the carrying on of his trade, industry, or agricultural pursuit—should the said defendant desire to continue using the mark, name, or designation—and, in default of such bond, he (the plaintiff) can ask for a suspension of the business and the seizure of the articles or products, giving, in his turn, if required, the proper bond.

The seizure shall be effected with all the formalities of the law.

ART. 65. The lawsuits to which the offenses mentioned in article 48 of this law may give rise shall be conducted in accordance with the rules of procedure laid down in the Code of Criminal Proceedings of the Nation.

ART. 66. Criminal proceedings in these cases shall not be

started by the Government. The institution thereof belongs exclusively to the interested parties, but after they have been started the Government attorney may continue them.

The complainant shall be permitted to discontinue his action at any time before the rendering of the sentence.

ART. 67. The parties injured by violation of the provisions of this law can bring an action for damages against the authors and accomplices of the fraud.

The sentences in these cases shall be published at the expense of the guilty parties.

## TITLE V.

### *Transient provisions.*

ART. 68. Trade marks granted in the Republic within four months after the promulgation of this law may be of no value, if an application is made in due form, before the expiration of that period, for the registration of a foreign mark identical with them, or so similar as to produce confusion, previously granted by a competent authority and used in the country before the promulgation of this law.

ART. 69. Questions which may arise in consequence of the principle laid down in the foregoing article shall be settled judicially if the interested parties do not reach an agreement. If they have waived the right to apply to the courts, the provisions of articles 30 and 31 shall be observed.

ART. 70. The registration of marks, made in conformity with the laws which are at present in force, shall be valid until the end of the period for which the marks were granted.

The renewal of the grants shall be made in conformity with the provisions of this law, preference being given to the present owners if they apply for the renewal before the expiration of their privilege.

ART. 71. Laws No. 787, of August 19, 1876, and No. 866, of September 13, 1877, are hereby abrogated.

## BOLIVIA.

## LEGISLATION ON PATENTS.

## I.

*Constitution of the Republic.*

ART. 89. The President of the Republic shall have power:

\* \* \* \* \*

26. To grant, according to law, exclusive privilege, for a certain time, to inventors, improvers, or importers of useful processes or methods applicable to sciences or arts, and to order, in case that the secret of the invention, improvement, or importation, be given to the public, the proper indemnification therefor to be paid.

## II.

*Rules for the political organization of the Republic.*

[January 10, 1903.]

ART. 20. The Secretary of Industry shall:

\* \* \* \* \*

5. Grant patents of invention and trade marks.

## III.

*Patent Law of May 8, 1858.*

ARTICLE 1. The law secures for all inventors the full and undisturbed enjoyment of their inventions, provided that said inventions are not against law or good morals.

ART. 2. New methods or processes discovered for the improvement of any industry or manufacture shall also be considered inventions.

ART. 3. Devices or discoveries tending only to change the proportions of things already known, or to produce articles which are merely ornamental, shall not be deemed inventions.

ART. 4. The Government shall have the power to purchase, for the benefit of the people at large, the secret of any useful invention.

ART. 5. To secure to an inventor the exclusive enjoyment of his invention, a patent of privilege shall be issued in his favor, said privilege to last for not less than ten years nor more than fifteen.

ART. 6. It is hereby forbidden to grant patents of privilege to the inventors of secret remedies. The publication of these secrets is a matter of duty for the inventors, who shall receive in consideration thereof a just indemnification.

ART. 7. Importers of machinery, or of methods of fabrication or industry not known in the Republic, shall also be entitled to patents of privilege, the concession of which shall be subject to the rules set forth in the following article.

ART. 8. If the establishment of the imported machinery or industry requires the expense or the disbursement in advance of \$25,000, the privilege shall be granted for three years. If the amount to be spent or advanced is \$50,000, the privilege shall last six years. If it reaches or exceeds \$100,000, the privilege shall be granted for ten years.

ART. 9. Privileges granted to importers of machinery, or of new methods of fabrication or industry, known and used in foreign countries, shall be limited to the district wherein the said machinery is to be set at work, or to the territory necessary to insure its benefits.

ART. 10. Applicants for patents of privilege of the two classes aforesaid shall file a petition explaining the nature of the invention or improvement, but the methods, materials, ingredients, or instruments to be used may be kept secret. The petition shall be accompanied by a sample of the article, smelted metal, or product to which the invention or improvement refers.

ART. 11. Applicants for patents for imported inventions shall file with their petition drawings or models of the machinery to be introduced, or a statement in full of the principles, methods, or processes of the industry to be introduced in the territory of the Republic and of the product which is sought to be obtained.

ART. 12. The Government shall appoint a committee of three competent persons, whose duty it shall be to examine the process

or secret constituting the invention or improvement to which the application refers.

ART. 13. This committee shall be always presided over by the Political Chief of the respective locality. Two members of the Municipal Council of the same locality shall be added to it and shall aid in the examination referred to in the preceding article.

ART. 14. The two members of the Municipal Council and the three members of the committee appointed by the Government shall take an oath, to be administered by the Political Chief, not to reveal the secret of the invention or improvement and to faithfully perform their duties.

ART. 15. The members of the committee and those of the Municipal Council added to it shall meet forthwith and confer without the interested parties being present about the report to be made by them. Any difference of opinion which may arise shall be recorded.

ART. 16. The report to which the foregoing article refers shall be forwarded to the Secretary of "Fomento," enclosed in an envelope marked "confidential." It shall be accompanied by a description of the method, machinery, process, etc., constituting the invention, improvement, or importation under consideration.

ART. 17. Three months, at the latest, after the receipt of the report above referred to the Government shall cause the proper patent to be issued, said patent to be written on stamped paper of Class No. 1.<sup>a</sup> It shall order, furthermore, that the sealed package containing the explanation of the secret, or the statement spoken of in article 11, be preserved in the Department of "Fomento."

ART. 18. In order to prevent the patentees from misusing their patents the Government shall set forth on the latter that it does not guarantee either the truth, the merits, or the advantages of the invention, improvement, or importation, and that the whole responsibility therefor is left to the patentee.

ART. 19. If the patentee desires to make some changes in his invention, or in his original application, before obtaining the patent, or at any time thereafter within the period of the concession, he shall make a declaration in writing to that effect, accompanied with a description of the novelties to which he refers, the whole

<sup>a</sup> Stamped paper of this class was worth at the date of this decree 2 bolivianos per sheet. Now it belongs to class No. 6.

thing to be done in the manner and form established in article 10. The variation of the privilege shall not entail any extension of the time of the patent.

ART. 20. Patentees shall enjoy the exclusive right of using the invention or improvement to which the patent refers and of receiving the benefits thereof.

ART. 21. Patentees shall have the right to found establishments for the working of their patents, either at any place in the Republic, if the privilege extends to the whole of it, or at the locality to which the patent may have been circumscribed. They shall also have power to authorize other persons to make use of their methods and to dispose of their patents as personal property.

ART. 22. Patentees shall not assign or transfer their patents, wholly or in part, except by means of a public instrument; otherwise their privilege shall be forfeited.

ART. 23. The priority in the application for a patent, if any dispute or doubt arises in case that two applications are made, shall be proven by the certificate of the Secretary of "Fomento," who shall make a record of the day and hour on which the petitions are filed.

ART. 24. The period of the privilege of invention, improvement, or importation begins at the date of the decree by which it was granted.

ART. 25. Patents shall be recorded in special books kept for this purpose at the Department of "Fomento." The original petition, the specifications, and all other papers spoken of in article 10 shall be kept on file in the same Department until the expiration of the patent.

ART. 26. The granting of patents shall be officially communicated by the Secretary of "Fomento" to the Political Chiefs of the different districts and published in the official newspaper. The patents shall be also inserted in the Collection of laws and decrees.

ART. 27. At the expiration of the time of a patent, the invention, improvement, or privilege to import some new industrial method, shall become public property.

ART. 28. At the expiration of the time of a patent, the petition, specifications, and all other papers referred to in article 10 of this law shall be published and kept on file in the Public Library of the National Capital.

ART. 29. Whenever a privilege becomes forfeited for any of the reasons set forth in this law, the publication of the papers and the filing thereof in the Public Library, for the purposes of article 27, shall be likewise made.

ART. 30. The Government shall cause the descriptions and specifications, as well as all drawings accompanying them, to be printed and circulated in sufficient number through the Political Chiefs of the districts, so as to make the general public acquainted with the methods of the extinct patent.

ART. 31. Patentees shall have the right, upon giving the proper bond, to ask for the seizure of the machinery and instruments with which their patents have been or are infringed, and of the products obtained through their use.

ART. 32. Infringers shall be punished, upon conviction, by the confiscation to the benefit of the patentees of all the property seized. They shall also be bound to pay damages in proportion to the amount of the fraud.

ART. 33. If the fraud is not proved, the patentee shall be condemned to indemnify the supposed infringer for the losses and damages sustained by him in consequence of the seizure, and to pay a fine equal in amount to that which the latter might have had to pay if convicted.

ART. 34. Whenever a patentee is disturbed in the exercise of his exclusive rights as such, he shall have the right to apply for protection to the courts of justice and request that the infringers be punished according to the preceding articles. But in case that a dispute on the validity or invalidity of the patent should arise, the question shall be decided by the tribunal designated by law to take cognizance of cases against the Government.<sup>a</sup>

ART. 35. In case of question or dispute between two patentees as to the true ownership of the invention, if the similarity of the two patents is absolute, recognition shall be given to the one first granted.

ART. 36. The patent subsequent in date shall be, in the case of the preceding article, considered as a patent of improvement.

ART. 37. Patents granted for an invention or improvement, or for the importation of foreign inventions or improvements, which the tribunals may condemn as contrary to law, public se-

<sup>a</sup> This special tribunal having been abolished, the ordinary courts and tribunals of justice shall take cognizance of these cases.

curity, or police regulations, shall be void. Patentees in this case shall have no right to indemnification.

ART. 38. Patents shall be forfeited, not only in the cases already explained, but also in the following:

1. When the patentee is convicted of having concealed, in his specification, the true manner of putting his invention into practice.

2. When the patentee is convicted of having employed secret methods not mentioned in the specification, or in the declaration under article 19 of the intention to amend it.

3. When the patentee is convicted of having concealed the fact that the invention for which he applied and obtained a patent was at the time of his application known and described and published, through the public press, within or without the Republic.

4. When the patentee has allowed one year and a day to pass since the day on which the privilege was granted to him, without having put his invention into practice, and has not given sufficient reason under the law to excuse his negligence.

5. When the patentee, or the assignee of his rights, fails to comply with the obligations imposed by the patent.

ART. 39. In all cases of nullification or extinction, for whatever reason, of a patent, the provisions of article 27 of the present law shall be carried into effect.

#### IV.

*Decree of September 11, 1877.*

Considering that the decree of May 8, 1858, does not contain certain provisions which should be added to it, in order to insure in favor of the industry the good effects which must be expected from the granting of patents, and at the same time prevent this business from being turned into reckless speculation, tending to increase fruitlessly the burdens of the Government, I do hereby decree as follows:

ARTICLE 1. No patent shall be granted in any of the cases mentioned in the decree above named except upon proof of the truth of the claims made by the applicant, and of the usefulness of the invention, and the advantages which are promised to be derived from it to the national industry.

ART. 2. The examining committee shall report upon these

points, setting forth all the facts and circumstances which may be conducive to form an exact idea about them.

The applicant shall furnish to this effect the committee with all documents and proofs which may be needed, and shall give all the explanations, and make all the experiments which may be required.

When the application refers to the importation of new machinery, or industrial methods, the applicant shall submit an itemized schedule, duly supported by proof, of the expense he shall have to incur for this purpose. The report of the committee shall also embrace this point.

ART. 3 When the explanation of the invention or improvement can not be made without revealing the secret of the same, the applicant shall be permitted to refrain from making it; but he shall be bound to give such experimental proof of his invention as to convey the full knowledge thereof which is desired.

ART. 4. Applicants who, upon fulfillment of the requisites set forth in the preceding articles, succeed in securing their patents, shall pay a fee of 100 bolivianos, and deposit, furthermore, in the National Bank of the Republic, the sum of either 100, 200, or 300 bolivianos, according to the duration of the patent, which may be for three, six, or ten or more years, as security that the patent shall be put into practical operation. At the expiration of one year, granted for this purpose, without the patent having been put into practice, the amount deposited shall become the Government's property and shall be transferred to the National Treasury.

ART. 5. The present decree shall be considered as supplemental to the decree above cited of May 8, 1858, which as now amended shall remain in force.

## V.

*Order of the Secretary of the Treasury and Industry of January  
17, 1902.*

Upon examination of the case of José Szendy, applicant for a patent for the manufacture of felt hats in this and other cities in the Republic, \* \* it is decided, and this decision shall be taken as a general rule, that in the cases mentioned in article 7 of the decree of May 8, 1858, the fact that the machinery or

industrial method to be imported from abroad has not been previously used, within or without the Republic, is indispensable for the granting of patents.

## VI.

*Order of the Secretary of the Treasury of March 26, 1903.*

Considering that the concession of exclusive privileges to importers of machines, or methods of fabrication or industry, is subordinated to the indispensable condition that the imported machines or methods are not known, or have not been used or put into practice, previous to the concession, within or without the Republic; and that the application of Matias Talamas, asking for a patent of privilege for a machine to manufacture cigars and cigarettes, which is known and used in the country, is against article 4 of the political Constitution of the State, which guarantees industrial liberty and restricts the power of the Executive in granting patents, excluding from it machines already known; and whereas no new invention for the manufacture of the articles aforesaid is herein involved, thereupon the application for the patent referred to is rejected.

## LEGISLATION ON TRADE MARKS.

*Law of November 25, 1893.*

ARTICLE 1. A tax of 5 bolivianos per year, to be collected through the Department of the Treasury and Industry, shall be hereafter levied on every trade mark which may be filed for registration at the proper office.

ART. 2. The Executive power shall make the proper rules for the execution of this law.

*Rules for the execution of the trade mark law. (March 27, 1897.)*

Whereas the law of November 25, 1893, which ordered a tax on trade marks to be levied and paid, gave authority to the Executive to make rules for the proper execution of its provisions:

Therefore, I, the Chief Magistrate of the Republic, by virtue of the power vested in me by item 5, article 89 of the Constitution, do hereby decree:

ARTICLE 1. An annual tax of 5 bolivianos shall be levied on each trade mark filed for registration under the present rules.

ART. 2. The following shall be considered as trade marks, namely: Engravings, monograms, vignettes, stamps in relief, letters and numerals with a special design, casks or wrappings of articles, and any other signs intended to distinguish from all others the products of a factory.

ART. 3. The trade mark secured through the process established in the present decree shall be the exclusive property of the manufacturer or business man who obtained it, and he shall have the right to oppose its being used by other manufacturers or business men. He may enforce before the courts his exclusive rights, which he may also assign or transfer to others by contract or last will.

ART. 4. The sale of the business house, or industrial enterprise to which the mark belongs, shall carry with it, unless provided otherwise by the contracting parties, the transfer of the mark.

ART. 5. The transfer of the mark shall be, for the purposes of this decree, recorded at the proper office.

ART. 6. All applications shall be accompanied by two copies or samples of the engraving, emblem, letter, stamp in relief, etc., which is to be used. One copy shall be filed at the registration office and the other forwarded to the Department of "Fomento."

ART. 7. The application shall also be accompanied by a description of the mark, made in duplicate, said description to specify the article or articles for which it is intended. If the owner of the mark does not personally attend to the business of this application, the power of attorney authorizing the applicant to act in his behalf shall also accompany the application.

ART. 8. No application shall be admitted if it is not accompanied with a receipt issued by the Department of the Treasury showing that the tax established by article 1 of this decree has been paid. Failure to comply with any of the provisions of this article shall cause the respective functionary to be responsible for the value of the patent.

ART. 9. The application shall be filed before the notary of the Treasury, who shall make at the foot of the document a short statement of its contents, and the day and hour on which it is filed, as well as of the fact that the duplicate copy of the mark was also filed.

ART. 10. The Prefects, after having complied with all the requisites established in the foregoing articles, shall grant in the name of the nation the exclusive right to use the trade mark. The decree by which this grant is made, as well as the application itself with all its exhibits, shall be published in the Official Bulletin, and if there is no such Bulletin, in any newspaper to be designated for that purpose, the publication to be made three separate times, ten days intervening between each, at the cost of the interested party.

ART. 11. After the publication is made as directed in the foregoing article, the applicant shall request, if no opposition has been shown to the granting of the trade mark, that the whole record should be forwarded to the Secretary of "Fomento," in order that he, upon the proper report of the law officer of the Department, may approve the concession.

The decision of the Secretary with all the papers of the case shall be recorded in a book specially kept for this purpose by the notaries of the Treasury. The entry shall be signed by the Prefect, the District Attorney, the interested party or his attorney, and the notary. Copies of this entry shall be given to the interested party and to the Department of Fomento.<sup>a</sup>

ART. 12. If any opposition is made after the expiration of the time of publication, the Prefect shall refer the whole record to the District Attorney, who shall decide about the priority of rights according to law.

ART. 13. If the decision of the Prefect is against the granting of the trade mark, an appeal may be taken against it within eight days, to be counted from the date of notification, to the Secretary of "Fomento," who, after hearing the opinion of the Attorney-General, shall affirm or reverse the decision. The decision of the Secretary of "Fomento" shall be final.

ART. 14. The samples of marks, or emblems, and their descriptions shall be faithfully kept, duly inventoried, and methodically classified, by the notary of the Treasury. They shall be exhibited for public inspection in well-arranged cases.

ART. 15. Counterfeitors of trade marks, adulterators of articles of commerce of a business house which makes use of a trade mark and sellers of counterfeited articles shall be punished with a fine

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<sup>a</sup> The text of this article has been amended by decree of March 13, 1900.

of from 20 to 200 bolivianos, independently of the penalties mentioned in article 302 of the Penal Code.

ART. 16. Articles of merchandise bearing counterfeited trade marks shall be confiscated to the benefit of the Departmental Councils.

ART. 17. Business men who prior to the enactment of this decree have been making use of a trade mark which proves to be identical with another trade mark granted under the new provisions shall be bound to adopt some change or modification of their distinctive sign or emblem. Their failure to do so shall render them liable to be punished as counterfeiters.

ART. 18. Business men who make use without the proper authority of a trade mark shall be punished with a fine of from 5 to 50 bolivianos, for the municipal fund, without prejudice to their being compelled to secure in the proper way the authority required by this decree.

ART. 19. Joint stock companies are entitled to the use of their names without any restriction.

ART. 20. Foreign trade marks shall not enjoy the guarantees granted by the present decree unless they are registered with the same formalities as are established for the domestic ones.

ART. 21. Business men who fail to pay the taxes due on account of their trade marks shall be subject to the process of coercion established by law against delinquents of this kind. If the payment is not made after the first notice a sufficient number of the articles of commerce protected by the mark shall be seized and sold at public auction. The amount of the tax and a penalty of 2 per cent per month shall be collected by this process. The concession of the trade mark may be also cancelled.

ART. 22. Business men who after having been punished as provided in the foregoing article should continue to make use of the trade mark, shall be prosecuted as counterfeiters.

*Decree of March 13, 1900, amending article 11 of the foregoing decree of March 27, 1897.*

Whereas the formalities established in article 11 of the decree of March 27, 1897, on the subject of trade marks, are apt to delay the prompt transaction of this business: Therefore, I do hereby decree:

**SOLE ARTICLE.** Article 11 of the decree of March 27, 1897, is hereby amended so as to make it read as follows:

“ART. 11. The publication provided for in the foregoing article having been made and no opponent having appeared, the interested party shall ask that the whole record of his case be forwarded to the Secretary of ‘Fomento,’ who, after hearing the opinion of the Attorney-General, shall approve the concession and issue in consequence thereof the respective patent. The record shall then be returned to the Prefect for the purposes set forth in article 14.”

*Decree of May 30, 1902, for the registration of trade marks.*

Whereas it is imperative to supplement the Rules for the registration of trade marks, by explaining the manner in which they must be numbered, designating the offices from which they are to be issued, and the manner in which they shall be recorded, and to establish also a rule that will protect merchants who have acted in good faith and who have ordered merchandise bearing a trade mark subsequently registered by others;

Now, therefore, I, José Manuel Pando, constitutional President of the Republic, decree:

ARTICLE 1. Certificates of trade marks shall bear the number which corresponds to them in the order of their registration in the Department of “Fomento,” and shall have attached on the reverse side thereof the drawing that represents the trade mark, sealed with the seal of the Department and signed by the Chief Clerk of the division.

ART. 2. The Department of “Fomento” shall keep a book for the registration of the certificates issued, recording the number and the nature of the article, and attaching to each entry a copy of the drawing of the trade mark, sealed and signed by the patentee or his attorney. The same formalities of guaranty shall be observed in the register kept by the notaries of the Treasury.

ART. 3. Merchandise of a particular trade mark, ordered from abroad prior to the date of the filing of the application with the Prefect for registration of the same trade mark, shall not be considered articles of commerce bearing a counterfeited trade mark.

ART. 4. The Department Prefects shall order the publication in the Department Bulletin, or in some other newspaper of greater circulation, of the application for registration of trade marks, so as to cause merchants who have ordered goods in advance covered

by the trade mark whose registration is solicited to be duly advised.

ART. 5. Certificates already granted shall form Series A and shall be numbered in the order of their being filed in the Department. Series B shall commence with No. 1 and shall apply to trade marks registered on and after this date.

ART. 6. These provisions supplement those given by Executive decrees of March 27, 1897, and March 13, 1900.

## BRAZIL.

PATENT LAW, OCTOBER 14, 1882.

The General Assembly decrees:

ARTICLE I. In the concession of a patent to the author of any invention or discovery the law guarantees the right of property and exclusive use.

*Section 1.* For the effects of this law the following shall constitute an invention or discovery:

1. The invention of new industrial products.
2. The invention of new processes or the new application of known processes for obtaining an industrial product or result.
3. The improvement of an invention already privileged, if it shall facilitate the manufacture of the product or the use of the privileged invention, or if it shall increase its utility.

Those industrial products, processes, applications, and improvements shall be considered new which, up to the application for a patent, have never, within or without the Empire, been employed or used, and of which can neither be found descriptions nor publications of the method by which they can be employed or used.

*Sec. 2.* The following inventions can not be made the object of a patent:

1. Those contrary to law or morality.
2. Those dangerous to public security.
3. Those noxious to public health.
4. Those which do not offer a practical industrial result.

*Sec. 3.* The patent will be conceded by the Executive power after the fulfillment of the formalities prescribed in this law and in its regulations.

*Sec. 4.* The exclusive privilege of a principal invention will only be valid to fifteen years, and that of an improvement to the invention conceded to the author will terminate at the same time with it.

If public necessity or utility require the free use (*vulgarização*) of an invention, or its exclusive use by the State during its privilege, the patent can be disappropriated in conformity with the legal formalities.

*Sec. 5.* The patent is transmissible by any of the modes of cession or transfer recognized by law.

ART. II. Inventors receiving privileges in other countries can obtain a confirmation of their rights in this Empire, provided that they fulfill the formalities and conditions of this law and observe the further dispositions in force applicable to the case. The confirmation will give the same rights as a patent conceded in the Empire.

*Section 1.* The priority of the property right of that inventor who, having solicited a patent from a foreign country, shall make a similar petition to the Imperial Government within seven months, will not be invalidated by facts which may occur during this period, to wit, another similar petition, the publication of the invention, and its use or employment.

*Sec. 2.* To the inventor who, before obtaining a patent, desires to experiment in public with his inventions, or wishes to exhibit them in an exposition, official or officially recognized, will be granted a title provisionally guaranteeing to him his right of property for a specified time and with the formalities required.

*Sec. 3.* During the first year of the privilege only the inventor himself or his legal successors can obtain a privilege for improvements on his own invention. It will be permitted to third parties, however, to present their petitions within the said period in order to establish their rights. The inventor of an improvement can not engage in the industry benefited while the privilege for the principal invention lasts without an authorization from its author. Nor can the latter employ the improvement without an accord with him.

*Sec. 4.* If two or more persons solicit a privilege at the same time for an identical invention, the Government, except in the hypothesis of section 1 of this article, will require that they shall previously determine the priority either by means of an accord or in a competent court.

ART. III. The inventor who seeks a patent will deposit in duplicate in the department which the Government shall designate, within a closed and sealed envelope, a report, in the national idiom, describing the invention with accuracy and clearness, its purpose and the method of using it, with the plans, designs, models, and samples which may contribute to an exact

understanding of the invention and the elucidation of the report, so that any person cognizant of the subject can obtain or apply the result, means, or product of which it treats. The report shall clearly specify the characteristic feature of the invention (privilegio). The extension of the right of patent will be determined by the said features, mention of this being made in the patent.

*Section 1.* With the document for deposit will be presented the petition, which should be limited to one single invention, specifying its nature and its purposes or applications in accordance with the report and with the documents deposited.

*Sec. 2.* If it shall appear that the subject of the invention involves an infraction of section 2, Article I, or has for its object alimentary, chemical, or pharmaceutical products, the Government will order a previous and secret examination of one of the copies deposited, in conformity with the regulations to be issued, and in accordance with the result it will or will not concede a patent. From a negative decision an appeal can be taken to the Council of State.

*Sec. 3.* With the exception only of the cases mentioned in the foregoing section, the patent shall be issued without previous examination.

Patents shall always state precisely which is their object, and the facts that the granting thereof is made without prejudice to the rights of third parties, and with no responsibility on the part of the Government as to the novelty or usefulness of the invention.

The patent of the inventor whose invention has been already patented in a foreign country shall last as long as the foreign patent may be in operation, provided that the period of this duration does not exceed the limits marked in section 4 of Article I.

*Sec. 4.* In addition to the fees and emoluments herein established the patentees shall pay a tax of 20 milreis the first year, 30 milreis the second, 40 milreis the third, and so on, adding 10 milreis to the quota of the preceding year, until the end of the privilege. In no case shall the taxes paid be refunded.

*Sec. 5.* Inventors who should improve their own inventions shall be given a certificate of improvement, a record of which

shall be made in the original patent. They shall pay for this certificate a fee equivalent to the annual tax to be paid that year.

*Sec. 6.* Transfers or assignments of patents, or certificates of registration of marks shall have no effect until they are recorded in the Department of Agriculture, Commerce, and Public Works.

ART. IV. The patent having been issued, and the period of thirty days thereafter having elapsed, the opening of the packages exhibited with the petition shall be in order. It shall be made in the manner and form provided by the rules.

The specification shall be published at once in the *Diario Official*, and a copy of the drawings, models, or samples shall be exhibited to the public. Anyone interested in these matters shall have the right to study these documents and models, and shall be allowed to take copies of the same.

*Sole section.*—If the previous examination referred to in section 2 of Article III has not been made, the Government shall cause competent proof to be given, by means of experiments, after the publication of the specification is made of the requisites and conditions established by law to give validity to the privilege. The proceedings shall be conducted in the manner and form established by the rules for such cases.

ART. V. Patents shall become valueless either by nullity or by extinction.

*Sec. 1.* Patents shall be null:

1. If granted in violation of the provisions of sections 1 and 2 of Article I.

2. If the patentee had not the priority of the invention.

3. If the patentee shall have falsified the truth or concealed essential matter in the report descriptive of the invention, whether in its object or in the manner of using it.

4. If the name of the invention shall be, with fraudulent purpose, diverse from its real object.

5. If the improvement shall not have the indispensable relation with the principal industry, and can be constituted a separate industry, or there shall have been priority (*preferiçao*) in the preference established by Article II, section 3.

*Sec. 2.* The patent will become extinct in the following cases:

1. The patentee not making effective use of the invention within three years, counting from the date of patent.

2. The patentee suspending the effective use of the invention for more than one year, except by cause of superior force judged sufficient by the Government after consulting the respective section of the Council of State. By use is understood, in these two cases, the effective exercise of the privileged industry and the supply of the products in proportion to their employment or consumption. It being proved that the supply of the products is evidently insufficient for the needs of employment or consumption, the privilege can be restricted to a zone determined by an act of the Government with the approval of the legislative power.

3. The patentee not paying the annuity within the terms of the law.

4. The patentee residing outside of the Empire not constituting an accredited agent to represent him before the Government or in court.

5. Through the express renunciation of the patent.

6. The patent or foreign title upon an invention also privileged in the Empire being discontinued.

7. The term of the privilege having expired.

*Sec. 3.* The nullity of a patent or a certificate of improvement will be declared by a decision of the commercial court (jurzo commercial) of the capital of the Empire by means of the summary process of decree No. 737 of November 25, 1850.

The following are competent to bring an action for nullity: The Solicitor of the Treasury and his assistants, to whom will be forwarded the documents and proofs corroborative of the infraction, and any interested party, with the assistance of that official and his assistants. An action of nullity in the cases of Article I, section 2, Nos. 1, 2, and 3, having been begun, the execution of the patent and the use or employment of the invention will remain suspended until the final decision. If the patent shall not be annulled, the patentee will be re-invested in its enjoyments with the integrity of the term of privilege.

*Sec. 4.* The extinction of patents will be declared by the Minister and Secretary of State for the Affairs of Agriculture,

Commerce, and Public Works, with recourse to the Council of State.

ART. VI. The following will be considered infractors of the privilege:

1. Those who, without license from the patentee, manufacture the products or employ the processes or make the applications which are the object of the patent.

2. Those who import, sell, or expose for sale, conceal, or receive for the purpose of sale counterfeited products of the privileged industry, knowing what they are.

*Sec. 1.* The infractors of a privilege will be punished in favor of the public coffers, with a fine from \$500 to \$5,000, and in favor of the patentee, with from 10 to 50 per cent of the damage caused or which may be caused.

*Sec. 2.* The following will be considered as aggravating circumstances:

1. The infractor to be or to have been an employee or workman in the establishment of the patentee.

2. The infractor to associate with an employee or workman of the patentee for acquiring knowledge of the practical method of obtaining or employing the invention.

*Sec. 3.* The cognizance of infractions of a privilege belongs to the juizes de direito (district judges) of the comarcas (districts) where they reside, who will issue, on the petition of the patentee or his legal representative, the warrants of search, apprehension, and deposit, and will prescribe the preparatory or preliminary proceedings of the process. The sentence will be governed by law No. 562 of July 2, 1850, and by decree No. 707 of October 9 of the same year, so far as they apply to the case. The products of which Nos. 1 and 2 of this article treat and the respective instruments and apparatus will be adjudged to the patentee by the same sentence which condemns the authors of the infractions.

*Sec. 4.* The process will not hinder an action by the patentee to secure indemnification for damage caused or which may be caused.

*Sec. 5.* Commercial jurisdiction is sufficient for all the causes relative to industrial privileges in conformity with this law.

*Sec. 6.* The following will be punished with a fine of from \$100 to \$500 in favor of the public coffers:

1. Those who announce themselves as possessors of a patent, using the emblems, marks, inscriptions, or labels upon products or objects prepared for commerce or exposed for sale as if they had been privileged.

2. Those inventors who continue to exercise an industry as privileged, the patent being suspended, annulled, or extinct.

3. Those privileged inventors who in prospectuses, advertisements, inscriptions, or by any mode of public notice shall mention patents without designating the special object for which they were obtained.

4. Those professional men or experts who in the hypothesis of section 2 of Article III cause the general diffusion of the secret of the invention, without prejudice in such case to the criminal or civil actions which the laws permit.

*Sec. 7.* The infractions of which the preceding paragraph treats will be prosecuted and judged as political crimes, in conformity with the legislation in force.

ART. VII. When a patent shall be conceded to two or more co-inventors, or when it becomes common by a title of gift or succession, each one of the coproprietors can use it freely.

ART. VIII. If a patent shall be given or left in usufruct, the usufructuary will be obliged, when his rights cease through the extinction of the usufruct or termination of the term of privilege, to give to the owner of the property the value at which it shall be estimated, calculated with relation to the time which the usufruct has lasted.

ART. IX. The patents of inventions already conceded will continue to be governed by the law of October 26, 1830, there being applied to them the dispositions of Article V, section 2, Nos. 1 and 2, and of Article VI of this present law, with the exception of pending processes or actions.

ART. X. All dispositions to the contrary are hereby revoked.

#### REGULATIONS FOR THE EXECUTION OF THE PATENT LAW.

##### *Inventions.*

ARTICLE 1. For the effects of law No. 3129 of October 14,

1882, and of the present regulations, the following shall constitute an invention or discovery:

1. The invention of new industrial products.
2. The invention of new means for obtaining an industrial product or result.
3. The invention of a new application of known means for obtaining an industrial product or result.
4. The improvement of an invention already patented.

“Product” signifies the material object obtained.

“By result” is understood the advantage obtained in the production or industrial operation as regards quality, quantity, and saving of time or of money.

“Means” expresses the process, chemical or mechanical combination, the manner of employing natural or artificial agents and known substances or matter.

“Application” is the fact of giving to any known agent, substance, or matter a new use.

“Improvement” is that which facilitates the manufacture of the product or the use of the patented invention or increases its utility.

Those products, results, means, applications, and improvements shall be considered “new” which have never, within or without the Empire, been employed or used, neither have been described and published so that they can be employed or used.

“Industrial” is that which shows appreciable result in industry or trade.

ART. 2. The following inventions can not be made the object of a patent:

1. Those contrary to law or morality.
2. Those dangerous to public security.
3. Those injurious to public health.
4. Those merely theoretical or scientific; that is, without a practical industrial result.

#### *Inventors.*

ART. 3. Natives or foreigners, whether residents or not of Brazil, who are authors of any of the inventions specified in article I of these regulations are inventors.

ART. 4. Privileged inventors of other countries can obtain

a recognition of their patent rights in the Empire by requesting their confirmation, provided that they comply with the formalities and conditions prescribed by the laws of Brazil.

ART. 5. The priority of rights of an inventor who, having regularly solicited a patent in a foreign country, shall make a similar petition to the Imperial Government within seven months will not be invalidated by facts which may occur during this period, such as another similar petition, the publication of the invention or its use or employment.

ART. 6. To inventors who, before obtaining a patent, desire to experiment in public with their inventions, or to exhibit them in an exposition, official or officially recognized, will be granted, on requesting the same, letters provisionally guaranteeing to them their rights of property.

ART. 7. During the first year of the patent only the inventor himself or his legitimate representative can obtain a patent for improvements on his own invention. It will be permitted to third parties, however, to present their applications within the said period in order to establish their rights.

If these applications relate to an improvement identical to that of the principal inventor, who has also presented his application within the first year, although at a later date, they shall not prejudice the rights of said inventor.

ART. 8. The inventor of an improvement on his own invention can use the improved industry as he may think best. All those interested in the principal invention, whether by transfer or partial, limited, or conditional cession, shall enjoy the same right.

ART. 9. The inventor of an improvement on the invention of another person which has already been patented can not make use of the improved industry while the patent for the principal invention lasts without the permission of the principal inventor; nor can the latter make use of the improvement without an agreement with its author.

ART. 10. If two or more persons solicit a patent at the same time for an identical invention, the Government, except in the hypothesis of article 2, section 1, of law No. 3129 of October 14, 1882, and article 5 of the present regulations, will require that they shall previously determine the priority either by agreement or in a competent court.

ART. 11. The rights of inventors, before they have been recognized by a patent, shall be regulated by common law.

*Patents of invention.*

ART. 12. The ownership and exclusive use of industrial inventions shall be guaranteed by patents granted by the executive power and issued by the Department of Agriculture, Commerce, and Public Works after the legal formalities have been satisfied.

ART. 13. The term of duration of a patent shall be fifteen years, counted from the date of its issue. This term can be restricted only by the inventor himself at the time of making application for the patent.

ART. 14. To the privileged inventor who improves his own invention will be given a certificate of improvement, which will be noted on the original patent and will terminate with the latter.

ART. 15. Patents for inventions already privileged in other countries shall terminate at the same time as the foreign patents, provided the latter shall not exceed the term of fifteen years.

ART. 16. If the invention belongs to two or more persons, the privilege shall be guaranteed by a single patent.

In this case, as also in the case of the ownership of the patent becoming common by title of gift or succession, each one of the joint owners, except by agreement to the contrary, can use the privileged industry freely, but he shall be held responsible for the whole of the obligations of the patent, as if it were exclusively his own.

ART. 17. If a patent shall be given or left in usufruct, the usufructuary will be obliged to give to the owner of the property an indemnity corresponding to the value at which it shall be estimated.

*Sec. 1.* The value of the property shall be the product obtained from multiplying a fixed percentage of the annual net revenue of the usufruct by the number of years which the usufruct has lasted.

The revenue of the usufruct for said estimate and the annual percentage to be given to the owner of the property, shall be determined by experts appointed by the interested parties.

*Sec. 2.* The usufructuary shall be required to pay the indemnity only when his rights have ceased, either through the extinction of the usufruct or the termination of the term of the patent.

*Sec. 3.* The owner of the property can require the usufructuary to give security for the payment of the indemnity.

If the usufructuary does not give the security demanded he will be obliged to pay at the end of each year the corresponding percentage.

ART. 18. Patents and the rights resulting therefrom may be transferred, wholly or in part, by any of the modes of cession or transfer recognized by common law, for a definite period, or for the whole term of the privilege, and to have effect throughout the Empire, or in any designated portion of its territory.

ART. 19. Patents, their transfers and any renewals relating to their ownership or to the use of the respective industry, shall not become effective until they have been registered in the Department of Agriculture, Commerce and Public Works, and the legal documents of such transfers or renewals been presented by the interested parties, in conformity with Title V of the present regulations.

Up to the date of the registration of patents, the patentees, their successors, and representatives are wholly responsible toward the State and third parties.

ART. 20. If public necessity or utility require the free use of an invention, or its exclusive use by the State, the patent can be disappropriated in conformity with the laws in force.

The disappropriation will include the principal invention, the respective improvements protected by the patent and the patented industry in effective use.

ART. 21. Commercial jurisdiction is competent for all actions relating to industrial privileges.

*Applications for patents and certificates of improvement.*

ART. 22. Those desiring to obtain patents of invention or certificates of improvement will deposit in duplicate in the Department of Public Archives, within a closed and sealed envelope, a report or specification, describing the invention with accuracy and clearness, its purpose and the method of

using it, together with the plans, designs, models, and samples necessary for the exact understanding of the invention and the elucidation of the report, so that any person cognizant of the subject can obtain the product or the result, employ the means, make the application or use the improvement of which it treats. The report shall clearly specify the characteristic features of the patent solicited and said feature shall determine the extension of the rights guaranteed by the patents, in conformity with the latter part of article 3, of law No. 3129, of October 14, 1882.

ART. 23. The report shall contain at the top of the first sheet a title which summarily and precisely designates the object of the invention, and they shall be written in the national language, without additions, interlineations or erasures, and shall be stamped on each of the leaves, dated and signed by the inventors or their attorneys.

The indications of weight and measure shall be made according to the metric system; those of temperature by the centigrade thermometer, and those of density, by specific weight.

ART. 24. The plans and drawings shall be made on suitable thick white paper, without creases or folds, and in black ink, so that they may be reproduced by photography or other similar process.

The sheets must be 33 centimeters long and 21 or 42 or 63 centimeters wide, with a border drawn in single lines, leaving a margin of 2 centimeters. In the space comprised by these lines must be made the plans and drawings according to a metrical scale, and each sheet must be numbered and signed by the inventor.

The inventor may, if he so desires, annex to each copy of the drawings a copy with colored drawings.

The duplicate may be dispensed with in the case of complicated mechanical models or those of large dimensions.

When the application is for an improvement on an invention already patented, the plans and drawings shall indicate in ink of the same color, but by means of broken or dotted lines, the changes to be made in the original invention.

ART. 25. The deposit shall be made by the inventor himself or his attorney, and an entry of the same shall be made in a book kept for that purpose, stating the hour, day, month and

year of the delivery of the deposit, the name of the applicant, and any statements he may have made, which shall be signed by the applicant and the Director of the Public Archives. A certified copy of the entry shall be given gratuitously to the applicant.

On one of the faces of the envelopes containing the deposit shall be written the number corresponding to the order of the delivery, the title of the invention, and the name of the inventor.

ART. 26. Applications for patents must be limited to one single invention, and must specify the name, nationality, profession, actual residence of the applicant, the nature of the invention and its purposes or applications in accordance with the report and documents deposited, and without restrictions or reservations.

The applications shall be accompanied by an acknowledgement and a list of the articles deposited, a sufficient power of attorney, if the application is not made by the inventor himself, the original patent or a copy of the newspaper in which it has been published, in the case of confirmation of a patent granted in another country, the original patent in the case of an improvement made by the patentee on his own invention, and a certified copy of the principal patent, if the application refers to an improvement on the invention of another person.

ART. 27. The report or specification, application, and documents required in making application for a patent must be written on paper 33 centimeters long and 21 centimeters wide, it being understood that the original patents are not included in this provision.

ART. 28. When the applications have been lodged with the Department of Agriculture, Commerce, and Public Works they shall be registered in a book kept for that purpose, in order that they may be proceeded with and the patents be issued in the order of the presentation of the applications. A note of the entry shall be made at the top of the application to which it refers.

ART. 29. If the application for a patent is evidently irregular, defective, or does not comply with the rules prescribed, it shall be rejected by order of the Minister of Agriculture,

Commerce, and Public Works, who shall state briefly the reasons for such rejection.

There shall be no appeal from this decision, but the party is permitted to amend his application, without prejudice to the right of priority which pertains to him.

*Previous and secret examination.*

ART. 30. If the application for a patent, although regularly made, relates to an invention which is excluded by paragraph 2, article 1 of law No. 3129 of October 14, 1882, or has for its object alimentary, chemical, or pharmaceutical products, the Government will order a previous and secret examination by a decision which shall be entered on the application and published in the *Diario Official*.

If the decision is based on the infraction of paragraph 2, article 1 of the aforesaid law, the applicant shall be permitted to answer, stating the particulars of the subject, and after receiving the reply, the Government shall pronounce definitely, revoking or confirming its first decisions. In this case the applicant shall abandon the application and request the delivery of the articles deposited.

ART. 31. The following are competent to make the examination:

1. The attorney for the Crown, Sovereignty, and National Treasury, if it shall appear to the Government that the invention is contrary to law or morality or dangerous to public security.

2. The Central Board of Public Health, represented by its president, if it shall appear to the Government that the invention is injurious to public health.

3. The polytechnic, naval, and military schools, the court faculty of medicine, and any of the public departments, represented by their directors or chiefs, which may be designated by the Minister of Agriculture, Commerce, and Public Works, according to the class of invention and practical industrial result to be examined. If the subject of the invention is complex and requires two or more examinations, these shall be made simultaneously or consecutively, as the examiners may determine.

ART. 32. When the necessary communications have been

sent to the Director of the Public Archives, to the examiner designated, and to the inventor or his attorney, the opening of the deposited envelopes shall take place on the day and hour advertised in the *Diario Official* at least twenty-four hours previously.

The envelopes having been presented and found intact, the articles in duplicate shall be opened, separated and counted, and the exactness or conformity of the copies verified; the sheets of the reports must be turned and the pages of the drawings and the plans, models, and samples compared. Bottles or deposits which are hermetically sealed shall not be opened.

When the verification has been concluded the copies shall be again placed in separate envelopes, which shall be closed and sealed, and the necessary inscriptions written on their face. One of the copies shall be deposited and the other given to the examiner.

ART. 33. If in the envelopes are found pieces different from those of the invention, or if essential articles are wanting which render the examination impossible, the envelopes shall be immediately closed and sealed, and the fact shall be communicated to the Minister of Agriculture, Commerce, and Public Works, in order that he may take such measures as the case requires, either annulling the deposit or ordering the applicant to supply the pieces that are wanting.

ART. 34. The Director of the Public Archives shall make a note of the opening of the envelopes and of the circumstances of the same in the margin of the entry of deposit specified in article 28 of these regulations, dating and signing the same together with the examiner and the inventor or his attorney, if he is present at the opening.

ART. 35. The attorney for the Crown, National Treasury, and Sovereignty, in person, and the directors or chiefs designated in accordance with the provisions of article 31, or the president of the Board of Public Health, assisted by the professors and experts whom they may think competent, shall, under their responsibility and in the secrecy required by law, proceed to make the examination, analysis, and experiments necessary.

They shall present a report of the result directly to the Minister of Agriculture, giving explicit conclusions in regard

to the matter, and they shall immediately return to the Department of Public Archives, in closed and sealed envelopes, the report, drawings, and other objects which have been received and have not been destroyed in the examination, for which they shall receive a receipt.

ART. 36. The examination must be concluded within sixty days from the date of the delivery of the envelopes, under penalty of responsibility.

ART. 37. If from the result of the examination the Government refuses the patent applied for, appeal shall be made to the Council of State, in conformity with the regulations in force.

*Issue of patents and certificates of improvement—Opening of the envelopes and publication of the reports.*

ART. 38. When the application for a patent or certificate of improvement has been regularly made and the previous examination in the special cases hereinbefore mentioned concluded, the patent shall be granted by a decree of the Executive power. In it shall be mentioned the name, nationality, profession, and residence of the inventor, the title of the invention and its object, reference being made to the descriptive report and articles deposited.

ART. 39. The decree granting the patent, together with the patent, invested with the legal formalities, shall be submitted for the imperial signature.

ART. 40. Grants of patents shall be immediately published in the Diario Official, and the patentees shall be officially notified to apply for the respective title deeds, to pay the expenses and fees due, and to be present at the opening of the deposited envelopes on the day and hour fixed, which must be within a period of thirty days, in accordance with the provisions of article 4 of law No. 3129, of October 14, 1882.

ART. 41. At the act of opening there shall be present the Director of the Public Archives, the president of the Board of Trade of the Department of State, in person or represented by a chief of section of said Board, and the interested parties, or, in their absence, two witnesses, and the opening shall take place with the formalities specified in the first part of article 32 of

the present regulations, and a memorandum of the same shall be drawn up.

This memorandum shall be written in a book kept for that purpose by an employe of the Public Archives, and shall be signed by the aforesaid officials and interested parties or witnesses, and noted in the margin of the entry of deposit mentioned in article 25.

ART. 42. The formalities of the foregoing article shall be observed even when a previous and secret examination of the invention has taken place.

ART. 43. The report shall be immediately published in full in the Diario Official, and one of the copies of the drawings, plans, models, or samples shall be laid open for public inspection and examination at the office of the Public Archives for a period of fifteen days, and the interested parties will be permitted to make copies or have copies made by a competent person, provided they are made without injury to the originals and in the place where the same are exhibited.

ART. 44. In case the previous and secret examination has not taken place, the Government, having published the report, shall order a verification of the requirements and conditions required by law for the validity of the patent according to the method established for such examination. The verification may be intrusted to other professional men or experts whom the Government may think competent, according to the nature of the invention.

#### *Provisional patents.*

ART. 45. Persons applying for provisional patents shall deposit, in a single copy, the report and documents accompanying the same, with the formalities prescribed in articles 22 to 27 of the present regulations.

With the acknowledgment of receipt of this deposit, they or their duly authorized attorneys shall apply for the grant of a provisional patent, stating the term for which it is asked, which must not exceed three years; and without other formality a provisional patent shall be issued to them by the Department of Agriculture, Commerce, and Public Works.

ART. 46. If the person who has obtained a provisional patent

uses the industry to which the invention is to be applied, he shall lose the right to claim the priority guaranteed from the date of the deposit.

ART. 47. If within the term of the provisional patent the inventor applies for the patent of invention, he shall be allowed to add to, change, or substitute the deposit already made. In the contrary case, the term of the provisional patent having expired, he shall withdraw the deposit by means of a permit from the Government shown to the Director of the Public Archives, who shall require a receipt of the delivery of the deposit to be given him, and shall notify the Department of Agriculture, Commerce, and Public Works of the delivery in order that the necessary entries may be made in the register of these patents.

ART. 48. In the case of an official or officially recognized exhibition the Government shall, by a single act, declare provisional protection for a specified time on the ownership of the inventions exhibited, provided that the reports and their respective documents have been previously deposited in the public archives, the receipt of such deposit constituting the title. The act of the Government shall mention the provision of article 46 of the present regulations.

ART. 49. The provisional patents shall not be valid for more than three years.

#### *Expenses and annuities.*

ART. 50. Applicants and patentees of patents, certificates of improvement, and provisional patents shall pay, besides the fees due according to the regulations in force, the expenses which have been incurred with the previous examinations and other investigations preceding the delivery of the respective titles.

ART. 51. The patentees of patents or their successors shall pay a tax of 20 milreis for the first year, 30 milreis for the second, 40 milreis for the third, increasing 10 milreis for each year that shall ensue over the preceding annuity for the entire term of the patent.

Interested parties may be relieved of the obligation of the annual payment by paying into the public Treasury or other

fiscal agency the whole amount of the annuities with a discount of 25 per cent. In no case will the annuities be refunded. Patentees of certificates of improvement will pay, once for all, an amount corresponding to the annuity due on the patent of the principal invention.

*Nullity of patents.*

ART. 52. Patents and certificates of improvement shall be null—

1. If in their concession any one of the requirements of paragraphs 1, 2, and 3 of Article 1 of law No. 3129, of October 14, 1882, has been infringed.
2. If the patentee did not have priority.
3. If the patentee has falsified the truth or concealed essential matter in the report descriptive of the invention in regard to the nature of the invention, its object, manner of using it, or the distinguishing features of the invention.
4. If the title of the invention is, with fraudulent purpose, diverse from its real object.
5. If the improvement has not an indispensable relation with the principal invention or industry and can constitute a separate invention or industry.
6. If the patent of improvement has been granted without regard to the priority referred to in article 2, paragraph 3, of law No. 3129, of October 14, 1882.

ART. 53. The nullity can be absolute or relate to a specified part of the invention.

ART. 54. The following are competent to promote an action for nullity:

1. The Solicitor of the National Treasury and his assistants, in the cases specified in article 2, No. 1, of these regulations.
2. The interested parties, with the assistance of that official or his assistants in all other cases.

The inventors, or their legitimate representatives, whose rights have been violated by the patent granted, and any person in a civil capacity, who may consider himself prejudiced as the consumer of the products of the patented industry, are considered the interested parties.

ART. 55. When the Solicitor of the National Treasury and

his assistants act as assistants in an action for nullity, they shall be heard ex officio on the proceedings of the process, and particularly on any agreement, compact, or transaction which may put an end to the private action, and they shall have the power to proceed with the action if public policy requires it.

The same procedure shall be observed in the case of the withdrawal of a private action at any stage of the proceedings of the trial or in any court of instance of the cause.

ART. 56. Judgments of nullity shall be declared by the commercial court of the capital of the Empire by means of the summary process mentioned in articles 237 to 241, of decree No. 737 of November 25, 1850, with the following modifications:

1. The requirement of paragraph 1 of the aforesaid article 237 will be satisfied by the production of certificates or certified copies of the patents and certificates of improvement, of the descriptive reports and documents deposited, of the reports of the examiners, when there has been a previous examination, and any other documents in proof of the rights of the author and the obligations of the accused in conformity with law No. 3129 of October 14, 1882, and the present regulations.

2. All the exceptions, save hypothetical questions, constitute the matter of defense and shall be alleged at the time the defense is presented.

3. The examination of the witnesses shall not exceed two ordinary hearings in addition to the first hearing, and whatever extra hearings the judge may order shall come within this period.

ART. 57. An action for nullity in the cases of article 1, paragraph 1, Nos. 1 and 2 of law 3129, of October 14, 1882, having been begun, the effects of the patent grant and the use of the invention shall remain suspended until the final decision.

If the patent is not annulled, the respective patentee shall be reinvested in its enjoyment for the whole term of the privilege.

#### *Extinction of patents.*

ART. 58. Patents and certificates of improvement shall become extinct in the following cases:

1. The patentee not making effective use of the invention within three years, counting from the date of the patent.

2. The patentee not making effective use of an improvement on the invention of another person within the period of one year, counted from the cessation, from whatever cause, of the principal patent.

3. The patentee suspending the effective use of the invention for more than one year, except by reason of superior force judged sufficient by the Government after consulting the respective section of the Council of State. By use is understood, in these two cases, the effective exercise of the patented industry and the supply of the products in proportion to their employment or consumption.

4. The patentee not paying the annuities within the terms of the law.

5. The patentee residing outside of the Empire not constituting a duly accredited attorney to represent him before the Government or in court.

6. Through the express renunciation of the patent.

7. The patent or foreign title for an invention also patented in the Empire being discontinued from any cause.

8. The term of the privilege having expired.

ART. 59. The extinction of patents can be declared at the request of the interested parties or *ex officio* by the Government, the Department of Agriculture, Commerce, and Public Works being empowered to collect the necessary documents and proofs.

A claim for extinction having been presented by any interested party, the Government shall order the investigations it may deem necessary before rendering its final decision.

From a decision declaring the extinction of a patent, there shall be an appeal to the Council of State.

ART. 60. It being proved that the patented industry does not supply the products in quantity sufficient for the needs of employment or consumption, the Government shall fix a reasonable time for the increased production of such products; and if, this term having terminated, the production continues insufficient, the privilege can be restricted to a zone determined by an act of the Government, with the approval of the legislative power.

*Infringements of patents.*

ART. 61. The following will be considered infringers of the patent:

1. Those who, without license from the patentee, manufacture the products, employ the means, make the applications, or use the improvements which are the object of the patent.

2. Those who import, sell, or expose for sale, conceal, or receive for the purpose of sale, products which are infringements of the privileged industry, knowing them to be such.

ART. 62. The employment of the means and the use of the applications constitute an infringement, although they may not have for their object the exercise of the patented invention.

ART. 63. The following will be considered as aggravating circumstances:

1. The infringer being, or having been, an employee or workman in the establishment of the patentee.

2. The infringer having associated with an employee or workman of the patentee, for the purpose of acquiring knowledge of the practical method of obtaining or employing the invention.

ART. 64. The defense of an infringer which is based on the nullity or lapse of the patent shall not be admitted, unless the nullity has been declared in a previous action, and the infringement was not committed during the term of duration of the patent.

*Procedure and penalties.*

ART. 65. The infringers of a patent shall be punished, for the benefit of the public coffers, with a fine of from 500 milreis to 5,000 milreis, and for the benefit of the patentee, with from 10 to 50 per cent of the amount of the damage caused or which may be caused. The penalties shall not be cumulative for the repetition of the infringements prior to the commencement of the prosecution. Subsequent offenses constitute a repetition of the infringement and are subject to a new process.

ART. 66. Except when two or more persons have committed the same infringement, the infringers of a patent are not liable as joint debtors for the indemnification for damage, but each one shall be responsible for the damage which he personally has caused.

ART. 67. The products manufactured in contravention of a patent, as well as the respective instruments and apparatus, shall be adjudged to the patentee by the same sentence which condemns the authors of the infringements.

ART. 68. The cognizance of infringements belongs to the district judges of the districts in which they occur.

The preparation of the accusation and the judgment shall be regulated by law No. 562, of July 2, 1850, and decree No. 707, of October 9, of the same year, in so far as they apply.

ART. 69. To the same district judges belong the right to grant, with or without security, warrants of search, for the seizure or detention and deposit, which may be requested as a preliminary of the proceedings or during the proceedings. In the execution of such searches the formalities prescribed by articles 189-202, of the Code of Criminal Procedure, shall be observed.

During the searches there shall be present the secretary of the judge and the experts necessary for the verification of the objects which are used to commit the infringement and the discrimination of those which do not infringe.

In the case of an industrial establishment, the seizure or detention shall include the account books and correspondence.

ART. 70. Prior to the seizure or detention and deposit the injured party may request the judge to order an inspection, in which shall be verified and described everything that may be found and may constitute an infringement of the patent. Such inspection shall be made in all cases when the industrial establishments are open and operate publicly.

ART. 71. Patentees must institute proceedings within three days from the date on which the preliminary investigation was concluded, under penalty of the same becoming null and void.

The investigation or inspection shall also be null if, after the commencement of the proceedings, these are suspended by the author for more than fifteen days.

ART. 72. The proceedings referred to in the preceding articles shall not prevent patentees from instituting actions for indemnification for damages caused or which may be caused.

*Police offenses.*

ART. 73. The following will be punished with a fine of from 100 to 500 milreis:

1. Those who announce themselves as possessors of a patent by using emblems, marks, placards, or labels upon products or articles prepared for commerce or exposed for sale, as if they had been patented.
2. Inventors who continue to exercise an industry as patented when the patent has been suspended or annulled, or has become extinct.
3. Privileged inventors who in prospectuses, advertisements, placards, or by any mode of public notice shall mention patents without designating the special object for which they were obtained.
4. Professional men or experts who, in the hypothetical case provided for by article 3, paragraph 2, of law No. 3129, of October 14, 1882, and articles 31-33 of the present regulations, cause the general diffusion of the secret of the invention, without prejudice, in such case, to such criminal or civil actions as the laws permit.

ART. 74. The infringements of which the preceding article treats, shall be prosecuted and judged as police offenses, in conformity with the legislation in force.

*Registration of patents and other titles.*

ART. 75. Applications for patents and certificates of improvement, together with their accompanying documents, shall be preserved at the Department of Agriculture, Commerce, and Public Works, under the number of their respective patents. These numbers shall be communicated to the Office of the Public Archives in order that they may be also written on the corresponding envelopes which are there deposited. There shall be kept at the same Department the following books, which shall be opened, numbered, stamped on each page and closed by the chief of the Board of Trade, the titles and chronological order being inscribed on the face of the volumes of each series:

1. A register of applications for patents.
2. A register of patents.
3. A register of patents confirming foreign privileges.

4. A register of certificates of improvement on the invention of another person.

5. A register of certificates of improvement on the applicant's own invention.

6. A register of provisional patents.

These books must have margins sufficient for entries and notes.

7. A general register.

8. An index of the names of patentees.

9. An index of the subjects of patents.

10. An index of extinct patents.

ART. 76. In the general register shall be registered all patents granted under law No. 3129, of October 14, 1882, giving the order in which they are granted, the date of issue, name and residence of the patentee and his attorney, if there is one, the object and term of the patent, the industrial establishments or factories and deposits, the documents proving the effective exercise of the patent, the annuities paid, the transfers and cessions and their documents, the date of these, the name of the person to whom the transfer is made and his attorney, the extinction of the patent and its causes, together with any references or remarks.

ART. 77. Directly the patent is granted it shall be entered in the general register in the order of its respective number, and the registration shall be indorsed on the patent or certificate of improvement. It shall then be recorded in the special register, and the original copy of the patent shall be delivered to the patentee as soon as possible.

ART. 78. As soon as the documents or authenticated acts of the transfer or cession of patents are presented, they shall be entered in the general register, and after the registration has been certified on the patents or certificates of improvement, these shall be returned to the person presenting the documents of transfer, and the documents shall be filed.

If the patents or certificates of improvement are not presented on account of the transfer or cession being partial, limited or conditional, a certificate shall be given to the cessionaire.

ART. 79. The documents relating to the suspension, limitation, or extinction of a patent can be presented by any interested party, and, if they are in legal form, they shall be en-

tered in the general register and filed, and a certificate shall be given to the person presenting the same, if he so desires.

ART. 80. If after the entry has been made in the general register, other documents are presented requiring a second entry in the register, the fact shall be noted in the column reserved for remarks, and the registration in duplicate having been certified, the same shall be returned to the holder.

In said column shall be mentioned similar incidents which do not come under the other columns.

ART. 81. In the column of references shall be indicated the places of such registration, of the special book or any book in which may be found acts connected with that to which reference is made, such as the patents of improvement in connection with the principal patents, and vice versa.

ART. 82. The entries of the general register are proof of the respective acts, and the absence of these establishes the presumption that they did not occur.

ART. 83. It being proved that the documents presented and registered are false, the registration shall be canceled by a decision of the Government, based on legal proof of the falsification.

The authors of the falsification shall be liable to the criminal or civil actions which are competent in the case, in accordance with the common laws.

ART. 84. Any person may request elucidation of the registrations in the Department of Agriculture, Commerce, and Public Works, or of the objects deposited in the public archives, and certificates and copies of documents will be given to any person requesting the same, at his cost.

ART. 85. Before the 31st day of January of each year a list of the patents granted during the preceding year shall be made up from the general register, giving such changes as may have occurred as regards the ownership of the patents and exercise of the respective industries. This list shall be published in the Diario Official and also in the official paper of each Province.

A copy of the list shall be annexed to the annual report of the Department of Agriculture, Commerce, and Public Works to the General Legislative Assembly.

*Patents granted under the former law.*

ART. 86. Patents of inventions already granted will continue to be governed by the law of August 28, 1830, the provisions of article 5, paragraph 2, Nos. 1 and 2, and of article 6 of law No. 3129, of October 14, 1882, with the exception of pending processes or actions, being applicable to them, as well as the corresponding provisions of the present regulations.

ART. 87. For the execution of the preceding article, a supplementary register of such of the said patents as are still in force shall be made in the form prescribed in article 76.

In conformity with this provision, the holders, by whatever title, of such patents shall be obliged to present them at the Department of Agriculture, Commerce, and Public Works, within five months from the date of the present regulations, together with the legal documents which prove the transfers or cessions which have been made and the legality of the present ownership and use of the patent, and a memorandum of the acts relating to the effective exercise of the inventions, such as the existing industrial establishments, factories, or deposits, the places in which they operate, and any other matter which they may think necessary for the guarantee of their rights.

A receipt acknowledging the presentation of the patents, deeds, and documents shall be given to the holders.

ART. 88. Within thirty days following the expiration of the aforesaid period, the Department of Agriculture, Commerce, and Public Works shall organize a supplementary register, giving the patents received in the order of their dates, and after the registration has been certified on the patents they shall be returned to their owners, who shall acknowledge the receipt in writing.

ART. 89. The patents which are not presented within the term specified in article 87 of the present regulations, shall be considered as lapsed; and from the date of registration of the patents presented shall commence the comminatory effects of article 5, paragraph 2, Nos. 1 and 2 of law No. 3129, of October 14, 1882.

ART. 90. The provisions of articles 75 and 85 of the present regulations shall be applicable to the supplementary register.

ART. 91. All provisions to the contrary are hereby repealed.

## TRADE MARK LAW.

[*October 14, 1887.*]<sup>a</sup>

ARTICLE 1. The producer or merchant has the right to distinguish his merchandise or products by means of special marks.

ART. II. Industrial and trade marks may consist of everything which this law does not prohibit (art. 8) and which may distinguish articles from others, identical or similar, of different origin.

Any name, special or common denomination, partnership designation or signature, and letters or ciphers only, will serve for this purpose, if invested with a distinctive form.

ART. III. In order to secure the exclusive use of said marks their registry, deposit, and publication according to this law are indispensable.

ART. IV. The Commercial Junta (Council) or Inspectorio (Board of Inspection) of the locality of the establishment, or of the principal one, when more than one of the same kind belong to only one owner, is competent for the registry. The Commercial Junta of Rio de Janeiro is also competent for the registry of foreign marks, and as the central depository of those registered in other juntas or inspectorios.

ART. V. To effect the registry, a petition from the party interested, or his special attorney, is necessary, accompanied by three samples of the mark, containing:

1. A representation of what constitutes the mark, with all its accessories and explanations.

2. A declaration of the product of industry or trade for which it is designed, the occupation of the petitioner and his place of residence.

ART. VI. The secretary of the Junta, or the employee of the Inspectorio appointed for that purpose, shall certify on each of the models the day and hour of its presentation, and should the registry be ordered, he shall deposit one of them in the archives and deliver the others to the party interested, with a note of the registry and its number.

ART. VII. Within thirty days the party interested shall publish, in the newspapers that insert the acts of the General or provincial Government, the certificate of registration, containing the explanation of the characteristics of the mark, copied

from the declaration required by article 5, No. 1; and within sixty days (reckoning these terms from the date of the said registry), he shall deposit one of the models in the Commercial Junta of Rio de Janeiro, according to article 4.

ART. VIII. The registration of a mark is prohibited which contains or consists of—

1. Coats of arms, armorial bearings, decorations, or insignia, public or official, domestic or foreign, when their use has not been duly authorized.
2. A commercial or partnership name which the petitioner can not lawfully use.
3. The indication of a fixed locality or establishment which is not that of the origin of the article, whether there be joined to this indication a fictitious name or another's name, or not.
4. Words, images, or representations which involve offense to individuals or to public decorum.
5. The reproduction of another mark already registered for an article of the same species.
6. Total or partial imitation of a mark already registered for a product of the same species, and which may mislead or confuse the buyer. The possibility of error or confusion will be considered to be verified whenever the differences of the two marks can not be recognized without comparison or attentive examination.

ART. IX. In registering trade marks the following rules shall be observed:

1. Priority in the day or hour of the presentation of the mark establishes preference as to registration in favor of the petitioner. In case of the simultaneous presentation of two or more identical or similar marks the preference of that one will be admitted which has been used or possessed for the longest time, and in default of this requisite none will be registered without being modified by the parties interested.

2. In case of doubt as to the use or possession of a mark, the Junta or Inspectoria will order the parties interested to settle the question before the Commercial Tribunal and they will then proceed to registration in conformity with the judgment.

3. Should identical or similar marks, as set forth in article 8, Nos. 5 and 6, be registered in different juntas or inspectorias,

the one which is prior in date shall prevail, and in case of simultaneous registry each of the parties interested can apply to the said Commercial Tribunal, that shall decide which shall be maintained, having in view the provisions of No. 1 of this article.

4. The junta or inspectoria to which shall be presented a certificate that the action is pending to which reference is made in the preceding number shall at once order the registration to be suspended till the final decision of the cause, which resolution shall be published in the official journal at the cost of the interested party.

ART. X. From the decision refusing registration, an appeal, with suspensive effect, can be made to the Court of Appeals of the district, in conformity with regulation No. 143 of March 15, 1842.

Like appeal against the admission of the mark can be made by—

1. Anyone who considers himself prejudiced by it as regards some registered mark.
2. The party interested in the cases named in article 8, Nos. 2 and 3.

3. The party offended in the cases named in No. 4, first part.

4. The public prosecutor in the two Nos. 1 and 4, last part.

The term allowed for making these appeals shall be five days, reckoning from the publication of the decision; but if the party does not reside in the place where the decision was made, and if there is no special prosecuting officer there, the term shall commence to run thirty days later.

ART. XI. Neither the failure to make an appeal nor its postponement shall destroy the right of any other party to bring suit in conformity with the preceding article—

1. For procuring the nullification of the registration made contrary to the provisions of article 8.

2. To oblige the competitor who is entitled to the same or a similar name to modify it so that error or confusion may be impossible. (Art. 8, No. 6, last part.)

This action can only be brought by one who can prove prior possession of the mark or name for commercial or industrial use, though he has not registered it and it expired by limitation, like that referring to article 8, Nos. 2, 3, and 4, first part,

if not brought within six months after the registry of the mark.

ART. XII. The registration shall be valid for all purposes for fifteen years, at the end of which it can be renewed, and so on thereafter.

The registration shall be regarded as null and void if the owner of the registered mark shall not make use of it within the term of three years.

ART. XIII. The mark can only be transferred together with the product of industry or trade for which it has been adopted, after it has been duly entered in the register, upon examination of authentic documents.

A like note shall be made should the firms be altered and the mark still continue to be used. In both cases publication is necessary.

ART. XIV. The following persons shall be punished with imprisonment from one to six months and a fine for the use of the State of 500 to 5,000 milreis:

1. Whoever reproduces wholly or in part, by whatever means, any industrial or trade mark duly registered and published, without the authority of the owner or his legal representative.

2. Whoever uses a mark belonging to another, or forged, as set forth in No. 1.

3. Whoever sells or offers for sale articles bearing a mark wholly or partly forged or belonging to another.

4. Whoever imitates an industrial or trade mark, in such a manner that the buyer may be deceived.

5. Whoever uses a mark so imitated.

6. Whoever sells or offers for sale articles bearing an imitated mark.

7. Whoever uses a commercial name or firm which does not belong to him, whether it forms part of a registered mark or not.

*Par. 1.* To constitute the imitation referred to in Nos. 4 to 6 of this article, it is not necessary that the resemblance of the mark should be complete. It is sufficient, whatever the differences, that there should be a possibility of mistake or confusion, as set forth in article 8, last part.

*Par. 2.* The usurpation of the commercial name or firm re-

ferred to in No. 7 shall be considered as existing, whether the reproduction be entire, or whether there be additions, omissions, or alterations, provided that there be the same possibility of mistake or confusion on the part of the buyer.

ART. XV. The following persons shall be punished with a fine of 100 to 500 milreis, for the use of the State:

1. Whoever, without due authority, uses, as an industrial or trade mark, arms, armorial bearings, or public or official insignia, domestic or foreign.

2. Whoever uses a mark that offends public decorum.

3. Whoever uses an industrial or trade mark that contains an indication of a locality or establishment which is not that of the place of origin of the merchandise or product, whether there be joined to this indication another's name or a fictitious one or not.

4. Whoever sells or offers for sale merchandise or products bearing marks such as are set forth in Nos. 1 and 2 of this article.

5. Whoever sells or offers for sale merchandise or products such as are set forth in No. 3.

ART. XVI. Whoever uses a mark containing anything personally offensive, or who sells or offers for sale articles bearing such a mark, shall be visited with the penalties of article 237, paragraph 3, of the Criminal Code.

ART. XVII. The criminal action against offenses named in Nos. 1, 2, and 4 of article 15, shall be instituted by the public prosecutor of the district where articles are found which bear the marks therein mentioned.

Every producer of or dealer in a like article, residing in the place whence it comes and the owner of the establishment falsely indicated are competent to bring the suit against the offenders named in Nos. 3 and 5, and the party offended or the party interested against those named in articles 14 and 16.

ART. XVIII. Repetition of the offense shall be punished with double the penalties fixed in articles 14, 15, and 16 if ten years have not elapsed since the previous condemnation for any one of the offenses named in this law.

ART. XIX. The said penalties do not exempt the delinquents from paying indemnity for the loss caused by them, and which the parties injured can demand by proper suit.

ART. XX. The sentence pronounced on the offenses embraced in this law shall be published in full by the successful party in the same journal in which the registries were published; otherwise they shall not be enforced.

ART. XXI. The party interested can demand:

1. A search or inspection to ascertain the existence of forged or imitated marks, or of merchandise or products that contain them.

2. The seizure and destruction of forged or imitated marks in the workshops in which they are prepared, or whenever they may be found before they are used for a criminal purpose.

3. The destruction of forged or imitated marks on the packages or articles bearing them, before they are cleared from the custom-house, even though the wrappers and the merchandise or products themselves may be thereby damaged.

4. The seizure and deposit of merchandise or products bearing a forged or imitated mark or one indicating a false origin, as set forth in article 8, No. 4.

*Par. 1.* The seizure and deposit only take place as preliminaries of an action, or in the course of it, and are of no effect if it be not instituted within thirty days.

*Par. 2.* The articles seized will serve to guarantee the payment of the firm, and to indemnify the party, for which purpose they will be sold at public auction, if they easily spoil, or in case of execution.

ART. XXII. Either of the measures referred to in the preceding article will be ordered or granted by the commercial judge whenever the party presents his petition with a certificate of the registration of the mark (art. 6); but in case of search the judge should observe the formalities prescribed in articles 189-202 of the Code of Procedure and in other legislation in force, and can, when he thinks proper, require security.

The production of the certificate of registry of the mark is unnecessary when the question is as to merchandise or products set forth in article 8, Nos. 1, 2, 3, and 4.

ART. XXIII. Without the production of the certificate of registry no action shall be admitted for trial, in virtue of this law, except that of article 11; but the injured party shall still be entitled to the indemnity due for the appropriation of the mark which he used prior to the registry.

ART. XXIV. The tribunal competent for the trial of actions referred to in this law is that of the domicile of the defendant or of the place in which were found the merchandise and products marked with the forged or imitated mark.

The indictment and judgment shall be regulated by law No. 562 of July 2, 1850, and decree No. 707 of October 9 of the same year.

The form of procedure for the actions of article 11 shall be that of articles 236 and the following ones of regulation No. 737 of November, 1850.

ART. XXV. The provisions of this law are applicable to Brazilians or foreigners whose establishments are without the Empire, under the following requirements:

1. That there exists between the Empire and the nation in whose territory are the said establishments a diplomatic convention securing reciprocity of guarantee for Brazilian marks.

2. That the marks have been registered in conformity with local law.

3. That the respective model and certificate of registration have been deposited in the Junta Commercial of Rio de Janeiro.

4. That the certificate and explanation of the mark have been published in the Diario Official.

ART. XXVI. In case of compliance with requirements Nos. 2 to 4 of the preceding article the provision in article 9, No. 3, shall have effect in favor of marks registered in foreign countries (which signed the convention promulgated by decree No. 9233 of June 28, 1884, or which approved it) for the space of four months, counting from the day when the registration is made according to local law.

ART. XXVII. The registration of industrial and trade marks shall be preceded by the payment of fees, which the Government will fix by regulation, not exceeding those paid for registrations and annotations of commercial contracts, and 20 per cent more, part of which will be paid to the Junta Commercial of Rio de Janeiro, as compensation for the increase of work which it will have.

ART. XXVIII. The guarantees given by law No. 2682 of October 23, 1875, are applicable to the marks registered in conformity therewith.

ART. XXIX. The Government will issue the regulations necessary for the execution of this law.

ART. XXX. All laws and provisions contrary to this are hereby repealed.

## REGULATIONS FOR THE EXECUTION OF THE TRADE MARK LAW.

### CHAPTER I.

#### *Preliminary provisions.*

ARTICLE 1. The efficacy of the guarantees established in law No. 3346 of October 14, 1887, in favor of industrial (or manufacturing) and trade marks, depends on the registration, deposit, and publication of said marks. (Law, art. 3.)

ART. II. Registration shall be made in the Commercial Junta or Inspectorio of the locality of the establishment or of the principal one, if more than one of the same kind the owner has deposit, in the Junta Commercial of Rio de Janeiro; and publication, by copying the certificate of registration in the journal that publishes the acts of the General or Provincial Government, according to the locality where the establishment is situated. (Law, arts. 4, 7.)

ART. III. The registration shall be valid for all its effects for fifteen years, on the expiration of which it can be renewed, and so on thereafter. But it shall be considered void if the owner makes no use of it within three years. (Law, art. 12.)

ART. IV. The guarantees of the aforesaid law No. 3346 of October 14, 1887, are applicable to Brazilians and foreigners whose establishments are outside of the Empire, whenever the following requirements concur:

1. That between the Empire and the nation in whose territory the said establishments exist, there be a diplomatic convention securing reciprocity of guarantees for Brazilian marks.

2. That the marks have been registered in conformity with local law.

3. That the respective model and certificate of registration have been deposited in the Commercial Junta of Rio de Janeiro.

4. That the certificate and explanation of the mark have been published in the Diario Official. (Law, art. 25.)

ART. V. In favor of marks registered in foreign countries which signed the convention promulgated by decree No. 9233 of June 28, 1884, or which afterwards agreed to it, the provision of article 20 of this regulation is valid for the term of four months, counting from the day when the registration is made according to local law whenever the requirements indicated in Nos. 2, 3, and 4 of the preceding article have been complied with. (Law, art. 26.)

ART. VI. For the execution of the provisions of articles 4 and 5, the Government will inform the commercial juntas and inspectorias which nations have concluded with the Empire diplomatic conventions securing reciprocity of guarantees for Brazilian marks and which have signed or adopted the convention promulgated by the cited decree No. 9233 of June 28, 1884.

ART. VII. The industrial or trade mark can only be transferred with the article of industry or trade for which it has been adopted, an entry thereof being duly made in the register, upon examination of an authentic document. A similar entry shall be made when partnership names are altered, but the mark continues to be used. In both cases publication is necessary, in conformity with article 2. (Law, art. 13.)

ART. VIII. The guarantees given in law No. 3346, of October 14, 1887, are applicable to marks registered in conformity with law No. 2682, of October 23, 1875. (Law, art. 28.)

## CHAPTER II.

### *Of industrial and trade marks; their registration, deposit, and publication.*

ART. IX. There shall be admitted to registration as an industrial or trade mark whatever distinguishes an article from others, identical or similar, of different origin; also, any name, special or common denomination, partnership designation or signature, letter or cipher, if invested with a distinctive form.

Marks are excepted and can not be admitted to registration which contain or consist of:

1. Coats of arms, armorial bearings, decorations, or insignia, public or official, domestic or foreign, when not duly authorized.

2. A commercial or partnership name which the petitioner can not lawfully use.
3. The indication of a fixed locality or establishment which is not that of the origin of the article.
4. Words, images, or representations which involve offense to individuals or to public decorum.
5. The reproduction of another mark, already registered for an article of the same species.
6. Total or partial imitation of a mark already registered for a product of the same species, and which may mislead or confuse the buyer.

*Sole paragraph.*—The possibility of error or confusion will be considered to be verified whenever the differences of the two marks can not be recognized without comparison or attentive examination. (Law, arts. 8, 2.)

ART. X. To obtain registration, a petition by the party interested or his special attorney is necessary, accompanied by three samples of the mark, containing:

1. The representation, by means of drawing, engraving, printing, or some analogous process, of what constitutes the mark with all its accessories, including the color or colors with which it should be used.
2. Its explanation or description.
3. A declaration of the article of industry or trade for which the mark is intended, the occupation of the petitioner and his place of residence.

The petition, as well as the samples of the mark, should be made on substantial paper, 33 centimeters long and 22 wide, with a margin for binding, without creases or seams, and each one stamped, dated, and signed. (Law, art. 5.)

ART. XI. As soon as a petition is presented for registration the secretary of the Junta Commercial, or, in the Inspectorias, the employee designated by the chief, shall certify on each model the day and hour of its presentation, giving the party a receipt when required and when the petition is drawn he will submit it for decision. (Law, art. 6.)

ART. XII. When the registration is ordered the secretary or the employee of the Commercial Inspectoria will certify it on each of the samples of the mark and will cause one of them to be placed in the archives with the petition, placing on it the

order number, which he will note also on the other samples delivered to the party. (Law, art. 6.)

ART. XIII. Within thirty days reckoned from the date of the registration the party interested shall publish in the official newspaper (art. 2) the description of the mark and the respective certificate, copied in full from one of the samples which, with the other from the newspaper, he shall deposit in the Junta Commercial of Rio de Janeiro within sixty days reckoned from the same date.

*Sole paragraph.*—The party can, if he wishes it, include in the publication the drawing or representation of the mark. (Law, art. 7.)

ART. XIV. These documents shall be bound at the end of the year, and to each volume shall be added an index, mentioning in alphabetical order the nature of the products for which the marks are designed, and then, consecutively, the name of the proprietor, the order number of the archives, and the place of registration.

ART. XV. Documents relative to registrations made in foreign countries shall be bound in another volume, with a suitable index added to it.

ART. XVI. Indexes corresponding to the past year will be published in the Diario Official in the month of July following.

The Junta Commercial of Rio de Janeiro, having ascertained the correctness of the publication, which it will cause to be corrected, if necessary, shall communicate it to the Government for the purposes determined in the international treaties.

ART. XVII. The commercial juntas or inspectorias will permit anyone who solicits the privilege to examine, in their offices and under the necessary guard, documents filed or deposited concerning industrial and trade marks.

ART. XVIII. If before the completion of the registration of a mark, the registration of one or more identical or similar marks, is requested, the registration of that one shall be made which had precedence in the day and hour of presentation; in default of this requisite, the mark of that petitioner will be preferred who, within eight days, proves to the tribunal of the Commercial Junta or inspectoria that he has used or possessed it for the longest time. In default of this proof none of the marks will be registered unless the parties interested

modify them, so as to avoid errors or confusion. (Law, art. 9, No. 1, combined with art. 8, No. 6.)

ART. XIX. In case of doubt arising as to the use or possession of the mark, the Commercial Junta or Inspectoria, if it deems it advisable, will order the parties interested to settle the question before the competent tribunal and the registration will then be made in conformity with the judgment. (Law, art. 9, No. 2.)

ART. XX. Should it happen that identical or similar marks, as set forth in Nos. 5 and 6, and sole paragraph of article 9, are registered in different juntas or inspectorias, that which is prior in date will take precedence.

In case of simultaneous registration, each of the parties interested can apply to the competent tribunal that will decide which shall be maintained, having in view the provision in article 18. (Law, art. 9, No. 3.)

ART. XXI. The junta or inspectoria to which may be presented a certificate that this action is pending shall at once order the effects of the registration to be suspended until the final decision of the cause, which (order) the party interested shall publish in the official journal. (Law, art. 9, No. 4.)

### CHAPTER III.

#### *Of appeals.*

ART. XXII. From the decision refusing or granting registration of an industrial or trade mark an appeal can be taken with suspensive effect, to the court of appeals of the district, according to regulation No. 143, of March 15, 1842:

(a) In the first case, by the party who has asked for the registration.

(b) In the case of grant of the registration.

1. By the public prosecutor in the cases of Nos. 1 and 4, last part, of article 9.

2. By the owner of a commercial name or firm which he who has registered the mark can not lawfully use, in conformity with No. 2 of the cited article 9.

3. By any producer of or dealer in similar goods who resides in the place falsely indicated as the place from which the article comes, in conformity with No. 3.

4. By the owner of the establishment also falsely indicated as the place of origin of the article, in conformity with said No. 3.

5. By the party injured in the case of No. 4, first part.

6. By the party interested in the registered mark in the cases of Nos. 5 and 6. (Law, art. 10, combined with art. 17, second part.)

*Sole paragraph.*—Appeal can be made in the case of No. 2 of this article, although the owner of the commercial name or firm has not registered the mark, and though the reproduction be not entire, and though these be additions, omissions, or alterations, whenever the possibility of error or confusion is verified. (Law, art. 10, combined with art. 11, last part; and art. 14, No. 7, par. 2.)

ART. XXIII. The term for taking an appeal will be five days, counting from the publication of the decision, but if the party does not reside in the place where the publication is made, and if there is not a special prosecutor there, the term will begin to run thirty days after. (Law, art. 10, last part.)

ART. XXIV. The Commercial Junta shall confirm the decision within twenty-four hours, counting from the first session after the presentation of the first draft (minute) of the appeal, if the appeal be not allowed. The Commercial Inspectorias shall make their decision within twenty-four hours, reckoned from the presentation of the minute, if they maintain their refusal of the registration.

ART. XXV. In the commercial juntas, the employee who has served as register in the case is competent to draw up the appeal for the court of appeals of the district; and in the inspectorias, whoever may be designated by the chief.

The presentation of the papers to the tribunal devolves in the inspectorias on the said employee, and in the juntas, on the secretary.

ART. XXVI. Besides the appeal, the persons mentioned in article 22 and in the cases respectively provided therein can institute a suit for the nullification of the registration. (Law, art. 11.)

ART. XXVII. The owner of a commercial name or firm is entitled to sue a competitor in the same kind of industry or trade, who has a claim to an identical or similar name or firm,

to compel him to modify them, so there can be no error or confusion, on proof of prior possession for industrial or commercial use.

*Sole paragraph.*—This suit is admissible though the plaintiff has not registered the name or firm and though there has not been a complete reproduction, but one with additions, omissions, or alterations, provided there be possibility of error or confusion. (Law, art. 11, combined with art. 14, No. 7, par. 2.)

ART. XXVIII. The tribunal competent for the suits named in articles 19, 20, 26, and 27 is that of the defendant's domicile, or of the place in which goods were found bearing the prohibited marks (art. 9) or where the usurpation of the name was practiced (art. 27). Its form of procedure is that of articles 236 and those following of regulation 737, of November 25, 1850. (Law, art. 24.)

ART. XXIX. The suits referring to acts provided for in article 9, Nos. 5 and 6, can not be instituted without the production of the certificate of registration and of its publication, save, as to the latter, when dealing with acts which occurred within the term allowed for the insertion of the document in the official paper. (Law, art. 22, last part, and art. 23, first part.)

ART. XXX. Those suits expire by limitation which are referred to in article 26, and which relate to the acts provided for in article 9, Nos. 2, 3, and 4, first part (individual offense), and in article 27 if not instituted within six months after the registration of the mark. (Law, art. 11.)

ART. XXXI. The party injured by the appropriation of the mark, of which he made prior use, without having it registered, is entitled to demand by means of a suitable action, indemnity for the loss which he has suffered. (Law, art. 23.)

#### CHAPTER IV.

##### *Of other guarantees of registered marks.*

ARTICLE XXXII. The guarantees of a duly registered mark which has been duly deposited and published are also rendered effective by means of—

1. A search or inspection to ascertain the existence of forged

or imitated marks, or of merchandise or products that contain them.

2. The seizure and destruction of forged or imitated marks in the workshops in which they are prepared, or whenever they may be found before they are used for a criminal purpose.

3. The destruction of forged or imitated marks on the packages or articles bearing them, before they are cleared from the custom-house, even though the wrappers and the merchandise or products themselves may be thereby damaged.

4. The seizure and deposit of merchandise or products bearing a forged or imitated mark, or one indicating a false origin.

5. Penal sanction against culprits.

6. Indemnity for loss occasioned. (Law, art. 21.)

ART. XXXIII. The measures of the preceding articles Nos. 1-4, will be ordered by a commercial tribunal, or required by it of the chief of public offices or establishment in which are the goods or products subject to such proceedings, whenever the party demands them, exhibiting a certificate of the registration of the mark, and observing the following provisions:

1. In case of search, the formalities of articles 189-202 of the Code of Criminal Procedure must be complied with.

2. The seizure and deposit only take place as preliminaries of the suit, or in the course of it, and are of no effect, if it be not instituted within thirty days, or if it be suspended by default of the plaintiff for more than fifteen days.

3. All duties due to the National Treasury having first been paid in the custom-house by the person who petitioned for the proceeding, the articles seized will be placed in the public depository.

4. The said articles will serve as a guarantee of the payment of the fine and the indemnity of the mark, for which purpose they will be sold at public auction in the course of the suit, if they easily spoil, or in case of execution. (Law, art. 21. pars. 1 and 2, and art. 22.)

ART. XXXIV. Before ordering the measures (proceedings) of article 32, the judge, if he thinks proper, can require of the party security for payment of costs. The said party can appeal to the court of appeals of the district against the amount of the costs.

ART. XXXV. The certificate of registration is not necessary

in case of marks, goods or products coming under the provisions of article 9, Nos. 1-4, to all of which are applicable the guaranties of article 32, Nos. 1-4. (Law, art. 22, last part.)

## CHAPTER V.

### *Of the penal sanction.*

ART. XXXVI. The following persons shall be punished with imprisonment from one to six months and a fine of 500 to 5,000 milreis, for the use of the State:

1. Whoever reproduces wholly or in part, by whatever means, any industrial or trade mark, duly registered and published without the authority of the owner or his legal representative.
2. Whoever uses a mark belonging to another, or forged, as set forth in No. 1.
3. Whoever sells or offers for sale articles bearing a mark wholly or partly forged, or belonging to another.
4. Whoever imitates an industrial or trade mark in such a manner that the buyer can be deceived.
5. Whoever uses a mark so imitated.
6. Whoever sells or offers for sale articles bearing an imitated mark.
7. Whoever uses a commercial or firm name which does not belong to him, whether it forms part of a registered mark or not.

*Par. 1.* To constitute the imitation referred to in Nos. 4-6 of this article, it is not necessary that the resemblance to the mark should be complete. It is sufficient, whatever the differences, that there should be a possibility of mistake or confusion, as set forth in article 9, No. 6, last part.

*Par. 2.* The usurpation of the commercial name or firm, referred to in No. 7, shall be considered as existing, whether the reproduction be entire, or whether there be additions, omissions, or alterations, provided that there be the same possibility of mistake or confusion on the part of the buyer. (Law, art. 14, pars. 1 and 2.)

ART. XXXVII. The following persons shall be punished with a fine of 100 to 500 milreis, for the use of the State:

1. Whoever, without due authority, uses, as an industrial

or trade mark, arms, armorial bearings, or public or official insignia, domestic or foreign.

2. Whoever uses a mark that offends public decorum.

3. Whoever uses an industrial or trade mark that contains an indication of a locality or establishment which is not that of the place of origin of the merchandise or product.

4. Whoever sells or offers for sale merchandise or products bearing marks such as are set forth in Nos. 1 and 2 of this article.

5. Whoever sells or offers for sale merchandise or products as set forth in No. 3. (Law, art. 15.)

ART. XXXVIII. Whoever uses a mark containing personal offense, or who sells or offers for sale articles bearing such a mark, shall be visited with the penalties of article 237, paragraph 3, of the Criminal Code.

ART. XXXIX. The repetition of the offense shall be punished with double the penalties fixed in articles 36, 37, and 38, if ten years have not elapsed since the previous condemnation for any of the offenses named in said articles. (Law, art. 18.)

ART. XL. The penalties named do not exempt the delinquents from payment of the loss caused by them, and which the parties injured can demand by proper suit. (Law, art. 19.)

ART. XLI. The sentences passed on the offenses named in this law shall be published in full by the successful party in the same journal in which the registrations were published; otherwise, they shall not be executed. (Law, art. 20.)

ART. XLII. The criminal action for the offenses mentioned in articles 36 and 38 shall be brought by the party interested or injured; that of article 37, Nos. 1, 2, and 4, by the public prosecutor of the district where were found the articles bearing the marks therein named; and that of Nos. 3 and 5 of said article 37 by any producer of or dealer in an identical or similar product who resides in the place of its origin, or by the owner of the falsely indicated establishment. (Law, art. 17.)

ART. XLIII. The tribunal for these actions is that of the domicile of the defendant, or of the place in which were found the goods or products distinguished by the mark subject to the penalty established in the preceding articles.

The indictment and judgment shall be regulated by law No.

562, of July, 1850, and decree No. 707, of October 9 of the same year. (Law, art. 24.)

## CHAPTER VI.

### *General provisions.*

ART. XLIV. The fees now collected in the commercial juntas and inspectorias of the Empire will continue to be levied and applied in the same way, except in Rio de Janeiro, those for the title of books, which are raised to 50 reis.

ART. XLV. There is also raised to 6 milreis the seal established for the registration of industrial and trade marks in No. 20, paragraph 5, of list B annexed to decree No. 8946 of May 19, 1883.

ART. XLVI. Contrary provisions are revoked.

Palace of Rio de Janeiro, December 31, 1887.

## INTERNATIONAL UNION—RATIFICATION OF ADDITIONAL ACT OF BRUSSELS.

By decree No. 984, dated January 9, 1903, the Brazilian Government has approved and ratified both the additional act of Brussels of the 14th December, 1900, and the additional act, also signed at Brussels on the 14th December, 1900, modifying the arrangement of Madrid of the 14th April, 1891, concerning the international registration of trade marks. Persons entitled to the benefits of the convention will hereafter enjoy a priority of twelve months from the date of the first foreign application for filing an application for patent in Brazil, and a priority of four months for filing application for the registration of trade marks.

## CANADA.

## THE PATENT ACT WITH AMENDMENTS.

[1903.]

An Act respecting Patents of invention, amended up to chap. 25, 60-61 Victoria, 1897.

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

## SHORT TITLE.

1. This Act may be cited as "*The Patent Act.*" 35 V., c. 26, s. 53.

## INTERPRETATION.

2. In this Act, unless the context otherwise requires,—

(a.) The expression "the Minister" means the Minister of Agriculture;

(b.) The expression "Commissioner" means the Commissioner of Patents, and the expression "Deputy Commissioner" means the Deputy Commissioner of Patents;

(c.) The expression "invention" means any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvement in any art, machine, manufacture, or composition of matter;

(d.) The expression "legal representatives" includes heirs, executors, administrators and assigns, or other legal representatives.

## PATENT OFFICE AND APPOINTMENT OF OFFICERS.

3. There shall be attached to the Department of Agriculture, as a branch thereof, an office which will be called the Patent Office; and the Minister of Agriculture for the time being shall be the Commissioner of Patents. 35 V., c. 26, s. 1, *part.*

4. The commissioner shall receive all applications, fees,

papers, documents and models for patents, and shall perform and do all acts and things requisite for the granting and issuing of patents of invention; and he shall have the charge and custody of the books, records, papers, models, machines and other things belonging to the Patent Office. 35 V., c. 26, s. 1, *part*

5. The Deputy of the Minister of Agriculture shall be the deputy commissioner of Patents, and the Governor in Council may, from time to time, appoint such officers and clerks under the Deputy Commissioner as are necessary for the purposes of this Act, and such officers and clerks shall hold office during pleasure. 60-61 V., c. 25, s. 1.

6. The Commissioner shall cause a seal to be made for the purposes of this Act, and may cause to be sealed therewith every patent and other instrument and copy thereof issuing from the Patent Office. 35 V., c. 26, s. 2, *part*.

#### APPLICATION FOR PATENTS.

7. Any person who has invented any new and useful art, machine, manufacture or composition of matter, or any new and useful improvement in any art, machine, manufacture or composition of matter, which was not known or used by any other person before his invention thereof, and which has not been in public use or on sale with the consent or allowance of the inventor thereof, for more than one year previously to his application for patent therefor in Canada, may, on a petition to that effect, presented to the commissioner, and on compliance with the other requirements of this Act, obtain a patent granting to such person an exclusive property in such invention;

2. No patent shall issue for an invention which has an illicit object in view, or for any mere scientific principle or abstract therefrom. 35 V., c. 26, s. 6, *part*.

8. Any inventor who elects to obtain a patent for his invention in a foreign country before obtaining a patent for the same invention in Canada, may obtain a patent in Canada, if the same be applied for within one year from the date of the issue of the first foreign patent for such invention; and, if within three months after the date of the issue of a foreign patent, the inventor gives notice to the commissioner of his intention to apply for a patent in Canada for such invention,

then no other person having commenced to manufacture the same device in Canada during such period of one year, shall be entitled to continue the manufacture of the same after the inventor has obtained a patent therefor in Canada, without the consent or allowance of the inventor; and, under any circumstances, if a foreign patent exists, the Canadian patent shall expire at the earliest date on which any foreign patent for the same invention expires. 55-56 V., c. 24, s. 1.

9. Any person who has invented any improvement on any patented invention, may obtain a patent for such improvement; but he shall not thereby obtain the right of vending or using the original invention, nor shall the patent for the original invention confer the right of vending or using the patented improvement. 35 V., c. 26, s. 9.

10. Every inventor shall, before a patent can be obtained, make oath, or when entitled by law to make an affirmation instead of an oath, shall make an affirmation, that he verily believes that he is the inventor of the invention for which the patent is asked, and that the several allegations in the petition contained are respectively true and correct.

2. In the event of the inventor being dead, such oath or affirmation shall be made by the applicant, and shall state that he verily believes that the person whose assignee or legal representative he is, was the inventor of the invention for which the patent is solicited, and that the several allegations in the petition contained are respectively true and correct.

3. Such oath or affirmation may be made before a minister plenipotentiary, *chargé d'affaires*, consul, vice-consul or consular agent, a judge of any court, a notary public, a justice of the peace, or the mayor of any city, borough or town, or a commissioner for taking affidavits, having authority or jurisdiction within the place where the oath may be administered. 55-56 V., c. 24, s. 2.

11. The applicant for a patent shall, for the purposes of this Act, elect his domicile at some known and specified place in Canada, and shall mention the same in his petition for a patent. 35 V., c. 26, s. 12.

12. The applicant shall, in his petition for a patent, insert the title or name of the invention, and shall, with the petition, send in a specification in duplicate of the invention, and an

additional or third copy of the claim or claims. 56 V., c. 34, s. 1.

13. The specification shall correctly and fully describe the mode or modes of operating the invention, as contemplated by the inventor; and shall state clearly and distinctly the contrivances and things which he claims as new and for the use of which he claims an exclusive property and privilege.

2. Such specification shall bear the name of the place where, and the date when it is made, and shall be signed by the inventor, if he is alive, and if not, by the applicant, and by two witnesses to such signature of the inventor or applicant.

3. In the case of a machine, the specification shall fully explain the principle and the several modes in which it is intended to apply and work out the same.

4. In the case of a machine, or in any other case in which the invention admits of illustration by means of drawings, the applicant shall also, with his application, send in drawings in duplicate, showing clearly all parts of the invention; and each drawing shall bear the signature of the inventor, if he is alive, and if not, of the applicant, or of the attorney of such inventor or applicant, and shall have written references corresponding with the specification; but the commissioner may require further drawings or dispense with any of them, as he sees fit.

5. One duplicate of the specification and of the drawings, if there are drawings, shall be annexed to the patent, of which it shall form an essential part, and the other duplicate shall remain deposited in the Patent Office.

6. The commissioner may, in his discretion, dispense with the duplicate specification and drawing, and in lieu thereof cause copies of the specification and drawing, in print or otherwise, to be attached to the patent, of which they shall form an essential part. 35 V., c. 26, s. 14; 36 V., c. 44, s. 4.

14. In all cases in which the invention admits of representation by model, the applicant, if required by the commissioner, shall furnish a model of convenient size, exhibiting its several parts in due proportion; and when the invention is a composition of matter, the applicant, if required by the commissioner, shall furnish specimens of the ingredients, and of the composition, sufficient in quantity for the purpose of experiment. If such ingredients or composition be of an ex-

plosive or dangerous character, they shall be furnished with such precautions as are prescribed in the requisition therefor. 55-56 V., c. 24, s. 3.

15. No application for a patent shall be withdrawn without the consent in writing of each and every registered assignee of such patent or any part thereof. 55-56 V., c. 24, s. 4.

#### REFUSAL TO GRANT PATENTS.

16. The commissioner may object to grant a patent in any of the following cases:

(a.) When he is of opinion that the alleged invention is not patentable in law;

(b.) When it appears to him that the invention is already in the possession of the public, with the consent or allowance of the inventor;

(c.) When it appears to him that there is no novelty in the invention;

(d.) When it appears to him that the invention has been described in a book, or other printed publication, before the date of the application, or is otherwise in the possession of the public.

(e.) When it appears to him that the invention has already been patented in Canada, or elsewhere, if the case is one within the eighth section of this Act, unless the commissioner has doubts as to whether the patentee or the applicant is the first inventor. 35 V., c. 26, s. 40.

17. Whenever the commissioner objects to grant a patent as aforesaid, he shall notify the applicant to that effect and shall state the ground or reason therefor, with sufficient detail to enable the applicant to answer, if he can, the objection of the commissioner. 35 Vic., c. 26, s. 41.

18. Every applicant who has failed to obtain a patent by reason of the objection of the commissioner, as aforesaid, may, at any time within six months after notice thereof has been addressed to him, or his agent, appeal from the decision of the commissioner to the Governor in Council. 35 V., c. 26, s. 42.

#### CONFLICTING APPLICATIONS.

19. In case of conflicting applications for any patent, the

same shall be submitted to the arbitration of three skilled persons, two of whom shall be chosen by the applicants, one by each, and the third of whom shall be chosen by the commissioner, or by the deputy commissioner, or by the person appointed to perform the duty of that officer; and the decision or award of such arbitrators, or of any two of them, delivered to the commissioner in writing, and subscribed by them, or any two of them, shall be final, as far as concerns the granting of the patent.

2. If either of the applicants refuses, or fails to choose, an arbitrator, when required so to do by the commissioner, and if there are only two such applicants, the patent shall issue to the opposing applicant.

3. If there are more than two conflicting applications, and if the persons applying do not all unite in appointing three arbitrators, the commissioner, or the deputy commissioner, or person appointed to perform the duty of that officer, may appoint the three arbitrators for the purposes aforesaid.

4. The arbitrators so named shall subscribe and take, before a judge of any court of record in Canada, an oath in the form following, that is to say:

“I, the undersigned (A. B.), being duly appointed an arbitrator under the authority of *The Patent Act*, do hereby solemnly swear (*or affirm, as the case may be*), that I will well and truly perform the duty of such arbitrator on the conflicting applications of (C. D. and E. F.) submitted to me.”

5. The arbitrators, or any one of them, when so sworn, may summon before them any applicant or other person, and may require him to give evidence on oath, orally, or in writing (*or on solemn affirmation, if such applicant or person is entitled to affirm in civil cases*), and to produce such documents and things as such arbitrators deem requisite to the full investigation of the matters into which they are appointed to examine, and they shall have the same power to enforce the attendance of such applicants and other persons, and to compel them to give evidence, as is vested in any court of justice in civil cases, in the province in which the arbitration is held; but no such applicant or person shall be compelled to answer any question, by his answer to which he might render himself liable to a criminal prosecution.

6. The fees for the services of such arbitrators shall be a matter of agreement between the arbitrators and the applicants, and shall be paid by the applicants who name them, respectively, except those of the arbitrator, or arbitrators, named by the commissioner, which shall be paid by the applicants jointly. 35 V., c. 26, s. 43, *part*.

#### GRANT AND DURATION OF PATENTS.

20. Every patent granted under this Act shall contain the title or name of the invention, with a reference to the specification, and shall grant to the patentee and his legal representatives, for the term therein mentioned, from the granting of the same, the exclusive right, privilege and liberty of making, constructing and using, and vending to others to be used, the said invention, subject to adjudication in respect thereof before any court of competent jurisdiction.

2. In cases of joint applications the patents shall be granted in the names of all the applicants. 35 V., c. 26, s. 10, *part, and* s. 16;—36 V., c. 44, s. 5.

21. Every patent shall be issued under the seal of the Patent Office, and the signature of the commissioner or of the deputy commissioner, and when duly registered shall be good, and shall avail the grantee and his legal representatives for the term mentioned in the patent. 56 V., c. 34, s. 2.

2. The commissioner may require that any patent, before it is signed by the commissioner, or by any other member of the Queen's Privy Council for Canada, acting for him, and before the seal hereinbefore mentioned is affixed to it, shall be examined by the Minister of Justice; and if such examination is so required, the Minister of Justice shall, accordingly, examine it, and if he finds it conformable to law, he shall certify accordingly, and such patent may then be signed, and the seal affixed thereto. 35 V., c. 26, s. 6, *part, and* s. 18.

22. The term limited for the duration of every patent of invention issued by the Patent Office shall be eighteen years; but at the time of the application therefor it shall be at the option of the applicant to pay the full fee required for the term of eighteen years, or the partial fee required for the term of six years, or the partial fee required for the term of twelve years. 55-56 V., c. 24, s. 5.

2. If a partial fee only is paid, the proportion of the fee paid shall be stated in the patent, and the patent shall, notwithstanding anything therein or in this Act contained, cease at the end of the term for which the partial fee has been paid, unless before the expiration of the said term the holder of the patent pays the fee required for the further term of six or twelve years, and obtains from the Patent Office a certificate of such payment in the form which is, from time to time, adopted, which certificate shall be attached to and refer to the patent, and shall be under the signature of the commissioner or of the deputy commissioner. 56 V., c. 34, s. 3.

3. If such second payment, together with the first payment, makes up only the fee required for twelve years, then the patent shall, notwithstanding anything therein or in this Act contained, cease at the end of the term of twelve years, unless at or before the expiration of such term the holder thereof pays the further fee required for the remaining six years, making up the full term of eighteen years, and obtains a like certificate in respect thereof. 55-56 V., c. 24, s. 5.

#### RE-ISSUE OF PATENTS.

23. Whenever any patent is deemed defective or inoperative by reason of insufficient description or specification, or by reason of the patentee claiming more than he had a right to claim as new, but at the same time it appears that the error arose from inadvertence, accident, or mistake, without any fraudulent or deceptive intention, the commissioner may, upon the surrender of such patent and the payment of the further fee hereinafter provided, cause a new patent, in accordance with an amended description and specification made by such patentee, to be issued to him for the same invention for any part or for the whole of the then unexpired residue of the term for which the original patent was, or might have been granted.

2. In the event of the death of the original patentee or of his having assigned the patent, a like right shall vest in his assignee or his legal representatives.

3. Such new patent, and the amended description and specification, shall have the same effect in law, on the trial of

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N. B.—Section 22 and its subsections apply only to patents granted after 9th July, 1892.

any action thereafter commenced for any cause subsequently accruing, as if the same had been originally filed in such corrected form before the issue of the original patent.

4. The commissioner may entertain separate applications, and cause patents to be issued for distinct and separate parts of the invention patented, upon payment of the fee for a re-issue for each of such re-issued patents. 35 V., c. 26, s. 19;—38 V., c. 14, s. 1.

#### DISCLAIMERS.

24. Whenever, by any mistake, accident or inadvertence, and without any wilful intent to defraud or mislead the public, a patentee has made his specification too broad, claiming more than that of which he or the person through whom he claims was the first inventor,—or has, in the specification, claimed that he or the person through whom he claims was the first inventor of any material or substantial part of the invention patented, of which he was not the first inventor, and to which he had no lawful right—the patentee may, on payment of the fee hereinafter provided, make disclaimer of such parts as he does not claim to hold by virtue of the patent or the assignment thereof.

2. Such disclaimer shall be in writing, and in duplicate, and shall be attested in the manner hereinbefore prescribed in respect of an application for a patent; one copy thereof shall be filed and recorded in the office of the commissioner, and the other copy thereof shall be attached to the patent and made a part thereof by reference, and such disclaimer shall thereafter be taken and considered as part of the original specification.

3. Such disclaimer shall not affect any action pending at the time of its being made, except in so far as relates to the question of unreasonable neglect or delay in making it.

4. In case of the death of the original patentee, or of his having assigned the patent, a like right shall vest in his legal representatives, any of whom may make disclaimer.

5. The patent shall thereafter be deemed good and valid for so much of the invention as is truly the invention of the disclaimant, and is not disclaimed, if it is a material and substantial part of the invention, and is definitely distinguished

from other parts claimed without right; and the disclaimant shall be entitled to maintain an action or suit in respect of such part accordingly. 35 V., c. 26, s. 20.

#### ASSIGNMENTS

25. The patent may be granted to any person to whom the inventor, entitled under this Act to obtain a patent, has assigned or bequeathed the right of obtaining the same, or in default of such assignment or bequest, to the legal representatives of the deceased inventor. 35 V., c. 26, s. 8;—36 V., c. 44, s. 2.

26. Every patent issued for an invention shall be assignable in law, either as to the whole interest or as to any part thereof, by any instrument in writing; but such assignment, and every grant and conveyance of any exclusive right to make and use and to grant to others the right to make and use the invention patented, within and throughout Canada or any part thereof, shall be registered in the Patent Office in the manner, from time to time, prescribed by the commissioner for such registration; and every assignment affecting a patent for invention shall be null and void against any subsequent assignee, unless such instrument is registered as hereinbefore prescribed, before the registration of the instrument under which such subsequent assignee claims. 35 V., c. 26, s. 22.

27. In cases of joint applications or grants, every assignment from one or more of the applicants or patentees to the other or others, or to any other person, shall be registered in like manner as other assignments. 35 V., c. 26, s. 10, *part*.

#### IMPEACHMENT AND OTHER LEGAL PROCEEDINGS IN RESPECT OF PATENTS.

28. A patent shall be void, if any material allegation in the petition or declaration of the applicant hereinbefore mentioned in respect of such patent is untrue, or if the specifications and drawings contain more or less than is necessary for obtaining the end for which they purport to be made, when such omission or addition is wilfully made for the purpose of misleading; but if it appears to the court that such omission

or addition was an involuntary error, and if it is proved that the patentee is entitled to the remainder of his patent *pro tanto*, the court shall render a judgment in accordance with the facts, and shall determine as to costs, and the patent shall be held valid for such part of the invention described, as the patentee is so found entitled to; and two office copies of such judgment shall be furnished to the Patent Office by the patentee, one of which shall be registered and remain of record in the office, and the other of which shall be attached to the patent, and made a part of it by a reference thereto. 35 V., c. 26, s. 27.

29. Every person who, without the consent in writing of the patentee, makes, constructs or puts in practice any invention for which a patent has been obtained under this Act, or any previous Act, or who procures such invention from any person not authorized by the patentee or his legal representatives to make use of it, and who uses it, shall be liable to the patentee, or his legal representatives, in an action of damages for so doing; and the judgment shall be enforced, and the damages and costs that are adjudged shall be recoverable, in like manner, as in other cases in the court in which the action is brought. 35 V., c. 26, s. 23.

30. Any action for the infringement of a patent may be brought in any court of record having jurisdiction, to the amount of the damages claimed, in the province in which the infringement is alleged to have taken place, and which is also that one of the said courts which holds its sittings nearest to the place of residence or of business of the defendant; and such court shall decide the case and determine as to costs. 35 V., c. 26, s. 24, *part*.

31. In any action for the infringement of a patent, the court if sitting, or any judge thereof if the court is not sitting, may, on the application of the plaintiff or defendant respectively, make such order for an injunction, restraining the opposite party from further use, manufacture or sale of the subject matter of the patent, and for his punishment in the event of disobedience of such order, or for inspection or account, and respecting the same and the proceedings in the action, as the court or judge sees fit; but from such order, an appeal shall lie under the same circumstances, and to the same

court, as from other judgments or orders of the court in which the order is made. 35 V., c. 26, s. 24, *part*.

32. Whenever the plaintiff, in any such action, fails to sustain his action, because his specification and claim embrace more than that of which he was the first inventor, and it appears that the defendant used or infringed any part of the invention justly or truly specified and claimed as new, the court may discriminate, and the judgment may be rendered accordingly. 35 V., c. 26, s. 25.

33. The defendant, in any such action, may plead specifically as a matter of defense, any fact or default which, by this act, or by law, renders the patent void; and the court shall take cognizance of that special pleading, and of the facts connected therewith, and shall decide the case accordingly. 35 V., c. 26, s. 26.

34. Any person who desires to impeach any patent issued under this Act, may obtain a sealed and certified copy of the patent and of the petition, affidavit, specification and drawings thereunto relating, and may have the same filed in the office of the prothonotary or clerk of the Superior Court for Lower Canada in Quebec, or of any of the divisions of the High Court of Justice for Ontario, or of the Supreme Court in Nova Scotia, or of the Supreme Court in New Brunswick, or of the Supreme Court of Judicature in Prince Edward Island, or of the Supreme Court in British Columbia, or of the Court of Queen's Bench in Manitoba, or of the Supreme Court in the North-west Territories, according to the domicile elected by the patentee, as aforesaid, or in the office of the registrar of the Exchequer Court of Canada,—which courts, respectively, shall adjudicate on the matter and decide as to costs; and if the domicile elected by the patentee is in the district of Keewatin, the Court of Queen's Bench of Manitoba shall have jurisdiction until there is a superior court in such district, after which such Superior Court shall have jurisdiction. 53 V., c. 13, s. 1.

2. The patent and documents aforesaid shall then be held as of record in such courts respectively, so that a writ of *scire facias*, under the seal of the court, grounded upon such record, may issue for the repeal of the patent, for cause as aforesaid, if, upon proceedings had upon the writ in accordance with

the meaning of this Act, the patent is adjudged to be void. 35 V., c. 26, s. 29;—37 V., c. 44, s. 1;—38 V., c. 14, s. 8;—49 V., c. 25, s. 14.

35. A certificate of the judgment avoiding any patent shall, at the request of any person filing it to make it of record in the Patent Office, be entered on the margin of the enrollment of the patent in the Patent Office, and the patent shall thereupon be, and be held to have been, void and of no effect, unless the judgment is reversed on appeal as hereinafter provided. 35 V., c. 26, s. 30.

36. The judgment declaring or refusing to declare any patent void shall be subject to appeal to any court having appellate jurisdiction in other cases decided by the court by which the judgment declaring or refusing to declare such patent void, was rendered. 35 V., c. 26, s. 31.

#### FORFEITURE OF PATENTS.

37. Every patent granted under this Act shall be subject, and be expressed to be subject, to the following conditions:

(a.) That such patent and all the rights and privileges thereby granted shall cease and determine, and that the patent shall be null and void at the end of two years from the date thereof, unless the patentee or his legal representatives, or his assignee, within that period or any authorized extension thereof, commence, and after such commencement, continuously carry on in Canada, the construction or manufacture of the invention patented, in such a manner that any person desiring to use it may obtain it, or cause it to be made for him at a reasonable price, at some manufactory or establishment for making or constructing it in Canada;

(b.) That if, after the expiration of twelve months from the granting of a patent, or any authorized extension of such period, the patentee or patentees, or any of them, or his or their representatives, or his or their assignee, for the whole or a part of his or their interest in the patent, imports, or causes to be imported into Canada, the invention for which the patent is granted, such patent shall be void as to the interest of the person or persons importing or causing to be imported as aforesaid;

2. (a.) Any question which arises as to whether a pat-

ent, or any interest therein, has or has not become void under the provisions of this section, may be adjudicated upon by the Exchequer Court of Canada, which court shall have jurisdiction to decide any such question upon information in the name of the Attorney General of Canada, or at the suit of any person interested:

3. (b.) This section shall not be held to take away or affect the jurisdiction which any court other than the Exchequer Court of Canada possesses. 55-56 V., c. 24, s. 6.

2. Whenever a patentee has been unable to carry on the construction or manufacture of his invention within the two years hereinbefore mentioned, the commissioner may, at any time not more than three months before the expiration of that term, grant to the patentee an extension of the term of two years on his proving to the satisfaction of the commissioner that he was, for reasons beyond his control, prevented from complying with the above condition:

3. The commissioner may grant to the patentee, or to his legal representatives or assignee for the whole or any part of the patent, an extension for a further term not exceeding one year, beyond the twelve months limited by this section, during which he may import or cause to be imported into Canada the invention for which the patent is granted, if the patentee or his legal representatives, or assignee for the whole or any part of the patent, show cause, satisfactory to the commissioner, to warrant the granting of such extension; but no extension shall be granted unless application is made to the commissioner at some time within three months before the expiry of the twelve months aforesaid, or any extension thereof. 35 V., c. 26, s. 28;—38 V., c. 14, s. 2;—45 V., c. 22, s. 1

#### CAVEATS.

38. Any intending applicant for a patent who has not yet perfected his invention and is in fear of being despoiled of his idea, may file, in the Patent Office, a description of his invention so far, with or without plans, at his own will; and the commissioner, on payment of the fee in this Act prescribed, shall cause the said document, which shall be called a Caveat, to be preserved in secrecy, with the exception of delivering

copies of the same whenever required by the said applicant or by any judicial tribunal, but the secrecy of the document shall cease when the applicant obtains a patent for his invention:

2. If application is made by any other person for a patent for any invention with which such caveat may, in any respect, interfere, the commissioner shall forthwith give notice, by mail, of such application, to the person who has filed such caveat, and such person shall, within three months after the date of mailing the notice, if he wishes to avail himself of the caveat, file his petition and take the other steps necessary on an application for a patent, and if, in the opinion of the commissioner, the applications are conflicting, like proceedings may be had in all respects as are by this Act provided in the case of conflicting applications:

3. Unless the person filing a Caveat makes application within one year from the filing thereof for a patent, the commissioner shall be relieved from the obligation of giving notice, and the caveat shall then remain as a simple matter of proof as to novelty or priority of invention, if required.  
35 V., c. 26, s. 39.

#### PATENT FEES.

39. The following fees shall be payable before an application for any of the purposes herein mentioned shall be received by the Commissioner, that is to say,—

|  |       |
|--|-------|
| Full fee for 18 years.....   | 60 00 |
| Partial fee for 12 years.....  | 40 00 |
| Partial fee for 6 years.....   | 20 00 |
| Fee for further term of 12 years.....  | 40 00 |
| Fee for further term of 6 years.....   | 20 00 |
| On lodging a Caveat.....   | 5 00  |
| On asking to register a judgment <i>pro tanto</i> .....  | 4 00  |
| On asking to register an assignment, or any other document affecting or relating to a patent, and for each and every patent mentioned in the notice given under section eight of this Act. 56 V., c. 34, s. 4..... | 2 00  |

|   |      |
|---|------|
| On asking to attach a disclaimer to a patent .....  | 2 00 |
| On asking for a copy of patent with specification .....   | 4 00 |
| On petition to re-issue a patent after surrender, and on petition to extend a former patent to the whole of Canada for every unexpired year of the duration of the provincial or sub-patent, the fee shall be at the rate of..... | 4 00 |

On office copies of documents, not above mentioned, the following charges shall be made:

|  |      |
|--|------|
| For every single or first folio of certified copy.....   | 0 25 |
| For every subsequent hundred words (fractions from and under fifty not being counted, and over fifty being counted for one hundred.) 55-56 |      |
| V., c. 24, s. 7.....   | 0 10 |

**40.** For every copy of drawings, the person applying shall pay such sum as the commissioner considers a fair remuneration for the time and labor expended thereon by any officer of the Patent Office or the department or person employed to perform such service. 35 V., c. 26, s. 35.

**41.** The said fees shall be in full of all services performed under this Act, in any such case, by the commissioner or any person employed in the Patent Office. 35 V., c. 26, s. 36.

**42.** All fees received under this Act shall be paid over to the Minister of Finance and Receiver General, and shall form part of the Consolidated Revenue Fund of Canada, except such sums as are paid for copies of drawings when made by persons not receiving salaries in the Patent Office. 35 V., c. 26, s. 37.

**43.** No person shall be exempt from the payment of any fee or charge payable in respect of any services performed for such person under this Act; and no fee, when paid, shall be returned to the person who paid it, except,—

(a) When the invention is not susceptible of being patented; or—

(b) When the petition for a patent is withdrawn:  
And in every such case the commissioner may return the fee paid less the sum of ten dollars. 35 V., c. 38.

#### GENERAL PROVISIONS.

44. The Government of Canada may, at any time, use any patented invention, paying to the patentees such sum as the commissioner reports to be a reasonable compensation for the use thereof. 35 V., c. 26, s. 21.

45. No patent shall extend to prevent the use of any invention in any foreign ship or vessel, if such invention is not so used for the manufacture of any goods to be vended within or exported from Canada. 35 V., c. 26, s. 47.

46. Every person who, before the issuing of a patent, has purchased, constructed, or acquired any invention for which a patent is afterwards obtained under this Act, shall have the right of using and vending to others the specific article, machine, manufacture, or composition of matter patented and so purchased, constructed or acquired before the issue of the patent therefor, without being liable to the patentee or his legal representatives for so doing; but the patent shall not, as regards other persons, be held invalid by reason of such purchase, construction, or acquisition or use of the invention, by the person first aforesaid, or by those to whom he has sold the same, unless the same was purchased, constructed, acquired or used, with the consent or allowance of the inventor thereof, for a longer period than one year before the application thereof for a patent thereof—making the invention one which has become public and in public use. 35 V., c. 20, s. 48.

47. All specifications, drawings, models, disclaimers, judgments and other papers, except Caveats, shall be open to the inspection of the public at the Patent Office, under such regulations as are adopted in that behalf. 35 V., c. 26, s. 44.

48. Clerical errors which occur in the framing or copying of any instrument in the Patent Office shall not be construed as invalidating the same, but when discovered they may be corrected under the authority of the commissioner. 35 V., c. 26, s. 45.

49. If any patent is destroyed or lost, a certified copy thereof may be issued in lieu thereof, upon the person who applies

therefor paying the fees hereinbefore prescribed for office copies of documents. 25 V., c. 26, s. 46;—53 V., c. 13, s. 4.

**50.** Every court, judge and person whomsoever shall take notice of the seal of the Patent Office and shall receive the impressions thereof in evidence, in like manner as the impressions of the Great Seal are received in evidence, and shall also take notice of and receive in evidence, without further proof and without production of the originals, all copies or extracts certified under the seal of the Patent Office to be copies of or extracts from documents deposited in such office. 35 V., c. 26, s. 2, *part*.

**51.** No officer or employee of the Patent Office shall buy, sell or acquire or traffic in any invention or patent, or in any right to a patent; and every such purchase and sale, and every assignment or transfer thereof by or to any officer or employee, as aforesaid, shall be null and void, but this provision shall not apply to any original inventor or to any acquisition by bequest 35 V., c. 26, s. 4, *part*.

**52.** The commissioner may, from time to time, subject to the approval of the Governor in Council, make such rules and regulations, and prescribe such forms, as appear to him necessary and expedient for the purposes of this Act,—and notice thereof shall be given in the *Canada Gazette*; and all documents, executed in conformity with the same and accepted by the commissioner, shall be held valid, so far as relates to proceedings in the Patent Office. 35 V., c. 26, s. 3.

**53.** The commissioner shall cause a report to be prepared annually and laid before Parliament of the proceedings under the Act, and shall, from time to time, and at least once in each year, publish a list of all patents granted, and may, with the approval of the Governor in Council, cause such specifications and drawings as are deemed of interest or essential parts thereof, to be printed, from time to time, for distribution or sale. 35 V., c. 26, s. 5; 36 V., c. 44, s. 1.

#### OFFENCES AND PENALTIES.

**54.** Every patentee under this Act shall stamp or engrave on each patented article sold or offered for sale by him the year of the date of the patent applying to such article, thus: “Patented, 1898,” or as the case may be; or when, from the

nature of the article, this cannot be done, then by affixing to it, or to every package wherein one or more of such articles is or are inclosed, a label marked with a like notice; and any such patentee selling or offering for sale any such patented article not so marked, or not inclosed in a package so marked, shall be liable to a penalty not exceeding one hundred dollars, and in default of the payment of such penalty, to imprisonment for a term not exceeding two months. 38 V., c. 14, s. 3.

55. Every person who writes, paints, prints, moulds, casts, carves, engraves, stamps or otherwise marks upon anything made or sold by him, and for the sole making or selling of which he is not the patentee, the name or any imitation of the name of any patentee for the sole making or selling of such thing, without the consent of such patentee,—or who, without the consent of the patentee, writes, paints, prints, moulds, casts, carves, engraves, stamps or otherwise marks upon anything not purchased from the patentee, the words, "patent," "letters patent," "Queen's patent," "patented," or any word or words of like import, with the intent of counterfeiting or imitating the stamp, mark or device of the patentee, or of deceiving the public and inducing them to believe that the thing in question was made or sold by or with the consent of the patentee or his legal representatives or who offers for sale as patented any article not patented in Canada, for the purpose of deceiving the public, is guilty of a misdemeanor, and liable to a fine not exceeding two hundred dollars, or to imprisonment for a term not exceeding three months, or to both. 35 V., c. 26, s. 50.

56. Every person who wilfully makes or causes to be made any false entry in any register or book, or any false or altered copy of any document relating to the purposes of this Act, or who produces or tenders any such false or altered document in evidence, knowing the same to be such, is guilty of a misdemeanor, and shall be liable to be punished by a fine and imprisonment accordingly. 35 V., c. 26, s. 51.

#### PATENTS ISSUED UNDER FORMER ACTS.

57. Every patent issued under any Act of the Parliament of Canada, or of the legislature of the late province of Canada, or of the legislature of any province now forming part of

Canada, shall remain in force for the same term and for the same extent of territory as if the Acts under which they were issued had not been repealed, but subject to the provisions of this Act in so far as the same are applicable to them:

2. The commissioner may, upon the application of the patentee named in any such patent, who is the inventor of the subject matter of the patent, if the subject matter of the patent has not been known or used, and has not, with the consent of the patentee, been on sale in any of the other provinces of Canada, issue, on payment of the proper fees in that behalf, a patent under this Act, extending such provincial patent over the whole of Canada, for the remainder of the term mentioned in the provincial patent. 35 V., c. 26, s. 32; 38 V., c. 14, s. 6.

58. Every patent heretofore issued by the Patent Office in respect of which the fee required for the whole or for any unexpired portion of the term of fifteen years, has been duly paid according to the provisions of the law under which such patent was issued in that behalf, has been and shall be deemed to have been issued for the term of fifteen years, subject, in case a partial fee only has been paid, to its ceasing on the same conditions on which patents hereafter issued are to cease under the operation of this Act. 46 V., c. 19, s. 1, *part*.

59. Every patent issued prior to the eighth day of April, one thousand eight hundred and seventy-five, under the Acts respecting patents then in force in Canada, shall extend over the province of Prince Edward Island for the remainder of the term mentioned therein. 38 V., c. 14, s. 4, *part*.

On each application for a patent, a thorough and reliable examination shall be made by competent examiners to be employed in the Patent Office for that purpose. 8 of Cap. 25, 55-56 Vic., 1892.

### 3 EDWARD VII.

#### CHAPTER 46.

##### *An Act to amend the Patent Act.*

[Assented to 13th August, 1903.]

His Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. The Deputy Commissioner of Patents may do any act or thing, whether judicial or ministerial, which the Commissioner of Patents is authorized or empowered to do by any provision of *The Patent Act*, (hereinafter referred to as the said Act), or by any Act in amendment thereof; and, in the absence of the Deputy Commissioner any person performing the duties of the Deputy Minister of Agriculture pursuant to section 14 of *The Civil Service Act* may, as Acting Deputy Commissioner, do any such act or thing..

2. The section substituted for section 8 of the said Act, by section 1 of chapter 24 of the statutes of 1892, is amended by striking out all the words after the word "inventor" in the thirteenth line thereof.

2. Notwithstanding anything contained in the said section 8, or in the said substituted section, no Canadian patent heretofore issued, except as provided for in section 16 hereof, shall be deemed to have expired before the end of the term for which it was granted merely because of the expiry of a foreign patent for the same invention.

3. Section 37 of the said Act, as heretofore amended, is repealed, and the provisions of sections 4, 5, 6, 7 and 8 of this Act are substituted therefor.

4. Every patent granted under the said Act shall, unless otherwise ordered by the Commissioner as hereinafter provided, be subject, and expressed to be subject, to the following conditions:—

(a.) Such patent and all the rights and privileges thereby granted shall cease and determine, and the patent shall be null and void, at the end of two years from the date thereof, unless the patentee or his legal representatives, within that period or an authorized extension thereof, commence, and after such commencement continuously carry on in Canada, the construction or manufacture of the invention patented, in such a manner that any person desiring to use it may obtain it, or cause it to be made for him at a reasonable price, at some manufactory or establishment for making or constructing it in Canada;

(b.) If, after the expiration of twelve months from the granting of a patent, or an authorized extension of such period, the patentee or patentees, or any of them, or his or their or

any of their representatives, for the whole or a part of his or their or any of their interest in the patent, imports or import or causes or cause to be imported into Canada, the invention for which the patent is granted, such patent shall be void as to the interest of the person or persons so importing or causing to be imported.

5. Whenever a patentee is unable to commence or carry on the construction or manufacture of his invention within the two years limited by paragraph (a) of section 4 of this Act, the Commissioner may, at any time not more than three months before the expiration of that term, grant to the patentee or his legal representatives an extension of the term of two years on his proving to the satisfaction of the Commissioner that his failure to commence or carry on such construction or manufacture is due to reasons beyond his control.

6. The Commissioner may grant to the patentee or his legal representatives, for the whole or any part of the patent, an extension for a further term not exceeding one year, beyond the twelve months limited by section 4 of this Act, during which he may import or cause to be imported into Canada the invention for which the patent is granted, if he or they show cause, satisfactory to the Commissioner, to warrant the granting of such extension; but no extension shall be granted unless application is made to the Commissioner at some time within three months before the expiry of the twelve months aforesaid.

7. On the application of the applicant for a patent, previous to the issue thereof, or on the application within six months after the issue of the patent of the patentee or his legal representatives, or on the application within six months hereafter of the owner of any patent heretofore issued and now in force or by this Act revived, the Commissioner, having regard to the nature of the invention, may order that such patent, instead of being subject to the condition set forth in paragraph (a) of section 4 of this Act, shall be subject to the following conditions, that is to say:—

(a.) Any person, at any time while the patent continues in force, may apply to the Commissioner by petition for a license to make, construct, use and sell the patented invention, and the Commissioner shall, subject to general rules to be made

for carrying out this section, hear the person applying and the owner of the patent, and if he is satisfied that the reasonable requirements of the public in reference to the invention have not been satisfied by reason of the neglect or refusal of the patentee or his legal representatives to make, construct, use or sell the invention, or to grant licenses to others on reasonable terms to make, construct, use or sell the same, may make an order under his hand and the seal of the Patent Office requiring the owner of the patent to grant a license to the person applying therefor, in such form, and upon such terms as to the duration of the license, the amount of the royalties, security for payment, and otherwise, as the Commissioner, having regard to the nature of the invention and the circumstances of the case, deems just;

(b.) The Commissioner may, if he thinks fit, and shall on the request of either of the parties to the proceedings, call in the aid of an assessor, specially qualified, and hear the case wholly or partially with his assistance;

(c.) The existence of one or more licenses shall not be a bar to an order by the Commissioner for, or to the granting of, a license on any application, under this section; and

(d.) The patent and all rights and privileges thereby granted shall cease and determine, and the patent shall be null and void, if the Commissioner makes an order requiring the owner of the patent to grant any license, and the owner of the patent refuses or neglects to comply with such order within three calendar months next after a copy of it is addressed to him or to his duly authorized agent.

8. Any question which arises as to whether a patent, or any interest therein, has or has not become void under the provisions of sections 4, 5, 6 and 7 of this Act, or any of them, may be adjudicated upon by the Exchequer Court of Canada, which court shall have jurisdiction to decide any such question upon information in the name of the Attorney General of Canada, or at the suit of any person interested; but this section shall not be held to take away or affect the jurisdiction which any court other than the Exchequer Court of Canada possesses.

9. The validity of any extension heretofore granted or assumed to be granted under section 37 of the said Act, of the period of two years limited by that section, or by that section

as heretofore amended, for the commencement of the construction or manufacture of a patented invention, or of the period of twelve months thereby limited for the importation of the patented invention, shall not be open to impeachment, nor shall the patent for any invention in respect of which any such extension has been granted be deemed to have lapsed or expired, because—

(a.) such extension was so granted or assumed to be granted by the Deputy Commissioner of Patents, or, as Acting Deputy Commissioner of Patents, by a person performing the duties of Deputy Minister of Agriculture under the provisions of *The Civil Service Act* in that behalf, instead of by the Commissioner of Patents; or because

(b.) in the case of the invention to which such extension relates, there had been granted or assumed to be granted a previous extension or previous extensions of the period of two years or the period of twelve months, as the case may be, so limited.

10. The validity of any patent heretofore granted shall not be impeached, nor shall such patent be deemed to have lapsed or expired, by reason of the failure of the patentee to construct or manufacture the patented invention, provided the patentee within the period of two years from the date of the patent allowed for such construction or manufacture, or with an authorized extension of that period, became, and at all times thereafter continued to be, ready either to furnish the patented invention himself or to license the right of using it, on reasonable terms, to any person desiring to use it.

2. In the case of any patent the validity of which is protected from impeachment by subsection 1 of this section, or which by reason of the provisions of that subsection is to be deemed not to have lapsed or expired, it shall be incumbent upon the patentee, or his legal representatives either (a.) within six months from the date of the passing of this Act to commence, and after such commencement to continuously carry on in Canada, the construction or manufacture of the patented invention in such manner that any person desiring to use it may obtain it, or cause it to be made for him, at a reasonable price, at some manufactory or establishment for making or constructing it in Canada, or (b.) within such six months to

apply for and thereupon obtain an order of the Commissioner under section 7 of this Act making the patent subject to the conditions set forth in that section; and upon his or their failure so to do, the patent and all the rights and privileges thereby granted shall cease and determine, and the patent shall be null and void.

11. The section substituted for section 39 of the said Act by section 7 of chapter 24 of the statutes of 1892, is amended by striking out lines eighteen to twenty-three of the said section, both lines included, and substituting the following therefor: "On petition to reissue a patent after surrender, in addition to the fees on the original patent which shall, notwithstanding such surrender, continue to be payable as aforesaid, for every unexpired year of the duration of the original patent the fee shall be \$4.00."

12. Section 47 of the said Act is amended by adding after the word "caveats" in the second line thereof, the following words: "and except those filed in connection with applications for patents which are still pending."

13. Notwithstanding anything in the said Act contained, in the case of any application to the Commissioner made within the time prescribed by the said Act or by this Act, and pending on the ninth day of April, one thousand nine hundred and three, or of any such application thereafter made within such time, for an extension of time to construct or manufacture a patented invention or to import it into Canada, the Commissioner may, until the first day of January, one thousand nine hundred and four, grant such extension after the time so prescribed, and any extension so granted shall have the same effect as if granted within the time so prescribed; and no patent, respecting which such application has been or is hereafter made according to the provisions of this section, shall be deemed at any time to have expired by reason of the failure of the patentee to construct or manufacture the patented invention before said lastly mentioned date.

14. In the case of any patent which has heretofore become void or the validity of which might heretofore have been impeached, and which is revived or protected from impeachment by any provision of this Act, or which by reason of any such provision is to be deemed not to have elapsed or expired any

person who has, between the time when such patent became void or when the ground for such impeachment arose, and the time of the passing of this Act, commenced to manufacture, use or sell in Canada the invention covered by such patent, may continue to manufacture, use or sell it in as full and ample a measure as if this Act had not been passed; and in case any person has contracted with the owner of the patent for the right to manufacture, use or sell such invention in Canada, such contract shall be deemed to have remained in full force and effect notwithstanding that the patent has become void as aforesaid, unless such person who has so contracted with such owner can show that in the meantime, by reason of or on the faith of such invalidity or lapsing he has materially altered his position with respect to such invention, and that the revival of such contract would cause him damage.

15. Whereas the models and specimens of compositions of matter and of ingredients thereof, filed in connection with applications for patents of invention are of no value after they have served their immediate purpose, and the cost of storing and preserving them is very considerable, therefore it is hereby enacted that the Commissioner may destroy, sell or otherwise dispose of all such models or specimens in such manner as he deems best in the public interest, and that any money arising from the sale or disposal of such models or specimens shall be dealt with as is provided by law with respect to public moneys.

16. Nothing in this Act contained shall affect any rights acquired by the parties to a suit in any of His Majesty's courts by the final judgment rendered therein.

“THE TRADE MARK AND DESIGN ACT,” WITH AMENDMENTS EMBODIED THEREIN; AND “THE ACT RESPECTING THE MARKING OF TIMBER,”

#### CHAPTER 63.

*An Act respecting Trade Marks and Industrial Designs.*

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

## SHORT TITLE.

1. This Act may be cited as "*The Trade Mark and Design Act.*" 42 V., c. 22, s. 40.

## APPLICATION OF ACT.

2. Sections three to twenty-one of this Act, both inclusive, apply only to trade marks, and sections twenty-two to thirty-eight, both inclusive, apply only to industrial designs. 42 V., c. 23, s. 37.

## TRADE MARKS.

3. All marks, names, brands, labels, packages or other business devices, which are adopted for use by any person in his trade, business, occupation or calling, for the purpose of distinguishing any manufacture, product or article of any description manufactured, produced, compounded, packed or offered for sale by him—applied in any manner whatever either to such manufacture, product or article, or to any package, parcel, case, box or other vessel or receptacle of any description whatsoever containing the same, shall, for the purposes of this Act, be considered and known as trade marks, and may be registered for the exclusive use of the person registering the same in the manner herein provided; and thereafter such person shall have the exclusive right to use the same to designate articles manufactured or sold by him:

2. Timber or lumber of any kind upon which labour has been expended by any person in his trade, business, occupation or calling, shall, for the purposes of this Act, be deemed a manufacture, product or article. 42 V., c. 22, s. 8.

4. A trade mark may be general or specific, according to the use to which it is applied or intended to be applied by the proprietor thereof:

(a.) A general trade mark is one used in connection with the sale of various articles in which the proprietor deals in his trade, business, occupation or calling generally:

(b.) A specific trade mark is one used in connection with the sale of a class of merchandise of a particular description. 42 V., c. 22, s. 9.

5. A register of trade marks shall be kept at the Depart-

ment of Agriculture, in which any proprietor of a trade mark may have the same registered, on complying with the provisions of this Act. 42 V., c. 22, s. 1.

6. The Minister of Agriculture may, from time to time, subject to the approval of the Governor in Council, make rules and regulations and adopt forms for the purposes of this Act, as respects trade marks; and such rules, regulations and forms circulated in print, for the use of the public, shall be deemed to be correct for the purposes of this Act; and all documents executed according to the same and accepted by the Minister, shall be deemed to be valid so far as relates to official proceedings under this Act. 42 V., c. 22, s. 2.

7. The Minister of Agriculture may cause a seal to be made for the purposes of this Act; and may cause to be sealed therewith trade marks and other instruments, and copies of such trade marks and other instruments, proceeding from his office in relation to trade marks. 42 V., c. 22, s. 3.

8. The proprietor of a trade mark may have it registered on forwarding to the Minister of Agriculture, together with the fee hereinafter mentioned, a drawing and description in duplicate of such trade mark, and a declaration that the same was not in use to his knowledge by any other person than himself at the time of his adoption thereof. 42 V., c. 22, s. 6.

9. Every proprietor of a trade mark who applies for its registration shall state in his application whether the said trade mark is intended to be used as a general trade mark or as a specific trade mark. 42 V., c. 22, s. 11.

10. Before any action is taken in relation to an application for registering a trade mark, the following fees shall be paid to the Minister of Agriculture, that is to say:—

|   |         |
|---|---------|
| On every application to register a general trade mark,<br>including certificate .....                             | \$30 00 |
| On every application to register a specific trade mark,<br>including certificate .....                            | 25 00   |
| On every application for the renewal of the registration<br>of a specific trade mark, including certificate ..... | 20 00   |
| For copy of each certificate of registration, separate<br>from the return of the duplicate.....                   | 1 00    |
| For the recording of an assignment.....   | 2 00    |

For office copies of documents, not above mentioned  
for every hundred words or for a fraction thereof 0 50  
For each copy of any drawing or emblematic trade  
mark, the reasonable expenses of preparing the  
same,—

And such fees shall be paid over by the Minister of Agriculture to the Minister of Finance and Receiver General:

2. If the Minister of Agriculture refuses to register the trade mark for which application is made, the fee shall be returned to the applicant or his agent,—less the sum of five dollars, which shall be retained as compensation for office expenses. 42 V., c. 22, s. 12.

11. The Minister of Agriculture may refuse to register any trade mark in the following cases:—

(a.) If he is not satisfied that the applicant is undoubtedly entitled to the exclusive use of such trade mark;

(b.) If the trade mark proposed for registration is identical with or resembles a trade mark already registered;

(c.) If it appears that the trade mark is calculated to deceive or mislead the public;

(d.) If the trade mark contains any immorality or scandalous figure;

(e.) If the so-called trade mark does not contain the essentials necessary to constitute a trade mark, properly speaking.

2. The Minister of Agriculture may, however, if he thinks fit, refer the matter to the Exchequer Court of Canada, and in that event such court shall have jurisdiction to hear and determine the matter, and to make an order determining whether and subject to what conditions, if any, registration is to be permitted. 54-55 V., c. 35.

12. The Exchequer Court of Canada may on the information of the Attorney-General, or at the suit of any person aggrieved by any omission, without sufficient cause, to make any entry in the register of trade marks, or by an entry made therein without sufficient cause, make such order for making, expunging or varying the entry as the court thinks fit, or the court may refuse the application, and in either case may make such order with respect to the costs of the proceedings as the court thinks fit:

2. The said court may, in any proceeding, under this sec-

tion, decide any question that may be necessary or expedient to decide for the rectification of such register:

3. The registered proprietor of any registered trade mark may apply to the Exchequer Court of Canada for leave to add to or alter such mark in any particular, not being an essential particular, and the court may refuse or grant leave on such terms as it may think fit:

4. Notice of any intended application to the court under the last preceding sub-section of this section shall be given to the Minister of Agriculture, and he shall be entitled to be heard on the application:

5. A certified copy of every order of the court for the making, expunging or varying of any entry in the register of trade marks, or for adding to or altering any registered trade mark shall be transmitted to the Minister of Agriculture by the registrar of the court, and such register shall thereupon be rectified or altered in conformity with such order, or the purport thereof shall otherwise be duly entered in the register, as the case may be. 54-55 V., c. 35.

13. On compliance with the requirements of this Act and of the rules hereinbefore provided for, the Minister of Agriculture shall register the trade mark of the proprietor so applying, and shall return to the said proprietor one copy of the drawing and description with a certificate signed by the Minister or the deputy of the Minister of Agriculture to the effect that the said trade mark has been duly registered in accordance with the provisions of this Act; and the day, month and year of the entry of the trade mark in the register shall also be set forth in such certificate; and every such certificate, purporting to be so signed, shall be received in all courts in Canada, as *prima facie* evidence of the facts therein alleged without proof of the signature. 42 V., c. 22, s. 7.

14. A general trade mark once registered and destined to be the sign in trade of the proprietor thereof shall endure without limitation:

2. A specific trade mark, when registered, shall endure for the term of twenty-five years, but may be renewed before the expiration of the said term by the proprietor thereof, or by his legal representative, for another term of twenty-five years, and so on from time to time; but every such renewal shall be regis-

tered before the expiration of the current term of twenty-five years. 42 V., c. 22, s. 10.

15. Any person who has registered a trade mark may petition for the cancellation of the same, and the Minister of Agriculture may, on receiving such petition, cause the said trade mark to be so cancelled; and the same shall, after such cancellation, be considered as if it had never been registered under the name of the said person. 42 V., c. 22, s. 13.

16. Every trade mark registered in the office of the Minister of Agriculture, shall be assignable in law; and on the assignment being produced, and the fee hereinbefore prescribed being paid, the Minister shall cause the name of the assignee, with the date of the assignment and such other details as he sees fit, to be entered on the margin of the register of trade marks on the folio where such trade mark is registered. 42 V., c. 22, s. 14.

17. Every person, other than the person who has registered the trade mark, who marks any goods or any article of any description whatsoever, with any trade mark registered under the provisions of this Act, or with any part of such trade mark, whether by applying such trade mark or any part thereof to the article itself, or to any package or thing containing such article, or by using any package or thing so marked which has been used by the proprietor of such trade mark, or who knowingly sells or offers for sale any article marked with such trade mark, or with any part thereof, with intent to deceive and to induce any person to believe that such article was manufactured, produced, compounded, packed or sold by the proprietor of such trade mark, is guilty of a misdemeanor, and liable, for each offense, to a fine not exceeding one hundred dollars and not less than twenty dollars,—which fine shall be paid to the proprietor of such trade mark, together with the costs incurred in enforcing and recovering the same:

2. Every complaint under this section shall be made by the proprietor of such trade mark, or by some one acting on his behalf and thereunto duly authorized. 42 V., c. 22, s. 16.

18. An action or suit may be maintained by any proprietor of a trade mark against any person who uses his registered trade mark, or any fraudulent imitation thereof, or who sells any article bearing such trade mark or any such imitation

thereof, or contained in any package being or purporting to be his, contrary to the provisions of this Act. 42 V., c. 22, s. 17.

19. No person shall institute any proceeding to prevent the infringement of any trade mark, unless such trade mark is registered in pursuance of this Act. 42 V., c. 22, s. 4, *part.*

20. Any person may be allowed to inspect the register of trade marks; and the Minister of Agriculture may cause copies or representations of trade marks to be delivered, on the applicant for the same paying the fee or fees hereinbefore prescribd. 42 V., c. 22, s. 18.

21. Clerical errors which occur in the drawing up or copying of any instrument, under the preceding sections of this Act, shall not be construed as invalidating the same, and when discovered they may be corrected under the authority of the Minister of Agriculture. 42 V., c. 22, s. 19.

#### INDUSTRIAL DESIGNS.

22. The Minister of Agriculture shall cause to be kept a book to be called "The Register of Industrial Designs," in which any proprietor of a design may have the same registered on depositing with the Minister a drawing and description in duplicate of such design, together with a declaration that the same was not in use, to his knowledge, by any other person than himself at the time of his adoption thereof; and the Minister, on receipt of the fee hereinafter provided, shall cause such design to be examined to ascertain whether it resembles any other design already registered; and if he finds that such design is not identical with, or does not so closely resemble any other design already registered as to be confounded therewith, he shall register the same, and shall return to the proprietor thereof one copy of the drawing and description, with a certificate signed by the Minister or the Deputy of the Minister of Agriculture, to the effect that such design has been duly registered in accordance with the provisions of this Act; and such certificate shall also set forth the day, month and year of the entry thereof in the proper register; and every such certificate purporting to be so signed shall, without proof of the signature, be received in all courts in Canada, as *prima facie* evidence of the facts therein alleged. 42 V., c. 22, s. 20.

23. The Minister of Agriculture may, from time to time, subject to the approval of the Governor in Council, make rules and regulations and adopt forms for the purposes of this Act, as respects industrial designs, and such rules, regulations and forms circulated in print for the use of the public, shall be deemed to be correct for the purposes of this Act; and all documents executed according to the same, and accepted by the Minister, shall be deemed to be valid so far as relates to official proceedings under this Act. 42 V., c. 22, s. 21.

24. Every design in order to be protected, shall be registered before publication; and after registration the name of the proprietor, who shall be a resident of Canada, shall appear upon the article to which his design applies, if the manufacture is a woven fabric, by being marked upon one end thereof, together with the letters "Rd."; and if the manufacture is any other substance, the letters "Rd.," with the year of the registration, shall be marked at the edge or upon any convenient part thereof:

2. The mark may be put upon the manufacture by making it on the material itself, or by attaching thereto a label containing the proper marks. 42 V., c. 22, s. 23.

25. The author of the design shall be considered the proprietor thereof, unless he has executed the design for another person, for a good or valuable consideration—in which case such other person shall be considered the proprietor, and shall alone be entitled to register it; but his right to the property shall only be co-extensive with the right which he has acquired. 42 V., c. 22, s. 24.

26. Before any action is taken in relation to an application for registering an industrial design, the following fees shall be paid to the Minister of Agriculture, that is to say:—

|   |        |
|---|--------|
| On every application to register a design, includ-<br>ing certificate .....   | \$5 00 |
| On every application for an extension of time,<br>including certificate, for each year of such ex-<br>tension ..... | 2 00   |
| For a copy of each certificate of registration, sepa-<br>rate from the return of the duplicate.....                 | 1 00   |
| For the recording of an assignment.....   | 2 00   |

|  |      |
|--|------|
| For office copies of documents, not above mentioned, for every hundred words or for a fraction thereof ..... | 0 50 |
| For each copy of any drawn copy of an industrial design, the reasonable expense of preparing the same:       |      |

And such fees shall be paid over by the Minister of Agriculture to the Minister of Finance and Receiver General:

2. If the Minister of Agriculture refuses to register the industrial design in respect of which application is made, the fee shall be returned to the applicant or his agent, less the sum of two dollars,—which shall be retained as compensation for office expenses. 42 V., c. 22, s. 36.

27. The Minister of Agriculture may refuse to register such designs as do not appear to him to be within the provisions of this Act, or any design which is contrary to public morality or order—subject to appeal to the Governor in Council. 42 V., c. 22, s. 34.

28. On the copy returned to the person registering, a certificate shall be given, signed by the Minister of Agriculture or the deputy of the Minister of Agriculture, showing that the design has been registered, the date of registration, the name of the registered proprietor, his address, the number of such design, and the number or letter employed to denote or correspond to the registration,—which said certificate, in the absence of proof to the contrary, shall be sufficient proof of the design, of the name of the proprietor, of the registration, of the commencement and term of registry, of the person named as proprietor being proprietor, of the originality of the design, and of compliance with the provisions of this Act: and generally the writing purporting to be so signed shall be received as *prima facie* evidence of the facts therein stated, without proof of the signature. 42 V., c. 22, s. 32.

29. The exclusive right acquired for an industrial design by the registration of the same as aforesaid shall be valid for the term of five years, but may be renewed at or before the expiration of the said term of five years, for a further period of five years or less, on payment of the fee hereinbefore prescribed, so as that the whole duration of the exclusive right shall not exceed ten years in all. 42 V., c. 22, s. 22.

30. Every design shall be assignable in law, either as to the whole interest or any undivided part thereof, by an instrument in writing, which shall be recorded in the office of the Minister of Agriculture, on payment of the fees hereinbefore provided; and every proprietor of a design may grant and convey an exclusive right, under any copyright, to make, use and vend, and to grant to others the right to make, use and vend such design, within and throughout Canada, or any part thereof, for the unexpired term of its duration, or any part thereof,—which exclusive grant and conveyance shall be called a license, and shall be recorded in the same manner and within the same delay as assignments. 42 V., c. 22, s. 25.

31. During the existence of the exclusive right (whether it is of the entire or partial use of such design), no person shall, without the license in writing of the registered proprietor, or of his assignee, as the case may be, apply such design, or a fraudulent imitation thereof, to the ornamenting of any article of manufacture, or other article to which an industrial design may be applied or attached, for the purposes of sale, or shall publish, sell or expose for sale or use any such article as aforesaid, to which such design or fraudulent imitation thereof has been applied; and every one who violates the provisions of this section shall forfeit a sum not exceeding one hundred and twenty dollars, and not less than twenty dollars, to the proprietor of the design, which shall be recoverable, with costs, on summary conviction, by the registered proprietor or his assignee. 42 V., c. 22, s. 26.

32. Every person who places the word "registered," or the letters "Rd.," upon any article for which no design has been registered, or upon any article for the design of which the copyright has expired, or who advertises the same for sale as a registered article, or unlawfully sells, publishes or exposes for sale such article, knowing the same to have been fraudulently marked, or that the copyright therefor has expired, shall, for each offense, on summary conviction, be liable to a penalty not exceeding thirty dollars and not less than four dollars, which shall be recoverable, with costs, by any person who sues for the same; and a moiety of such penalty shall belong to the prosecutor, and the other moiety to Her Majesty, for the public uses of Canada. 42 V., c. 22, s. 27.

33. The Exchequer Court of Canada shall, in respect of the register of industrial designs, have jurisdiction in a like proceeding and manner as hereinbefore provided in respect of the register of trade marks, to make orders for the making, expunging or varying any entry in such register of industrial designs, or for adding to or altering any industrial design. 54-55 V., c. 35.

34. The Minister of Agriculture shall, after due service of such order and payment of the fee hereinbefore provided, cause such alteration to be made in the register respecting industrial designs as is directed by the order made under the next preceding section. 42 V., c. 22, s. 30.

35. A suit may be maintained by the proprietor of any design for the damages he has sustained by the application or imitation of the design, for the purpose of sale, against any person so offending—if the offender was aware that the proprietor of the design had not given his consent to such application. 42 V., c. 22, s. 28.

36. All proceedings under the preceding sections of this Act, respecting industrial designs, shall be brought within twelve months from the commission of the offense, and not afterwards; and none of the provisions of the said sections shall apply to protect any design which does not belong to a person resident within Canada, and which is not applied to a subject matter manufactured in Canada. 42 V., c. 22, s. 31.

37. Any person may be allowed to inspect the register of industrial designs; and the Minister of Agriculture may cause copies or representations of industrial designs to be delivered, on the applicant for the same paying the fee which is deemed sufficient for the purpose of having the same copied or represented. 42 V., c. 22, s. 33.

38. Clerical errors which occur in the drawing up or copying of any instrument respecting an industrial design, shall not be construed as invalidating the same, but, when discovered, they may be corrected under the authority of the Minister of Agriculture. 42 V., c. 22, s. 35.

## CHAPTER 64.

*An Act respecting the marking of timber.*

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. Every person engaged in the business of lumbering or getting out timber, and floating or rafting the same on the inland waters of Canada, within the Provinces of Ontario and Quebec, shall, within one month after he engages therein, select a mark or marks, and having caused such mark or marks to be registered in the manner hereinafter provided, shall put the same in a conspicuous place on each log or piece of timber so floated or rafted:

2. Every one who violates the provisions of this section shall incur a penalty of fifty dollars. 33 V., c. 36, s. 1.

2. The Minister of Agriculture shall keep at the Department of Agriculture a book to be called the "Timber Mark Register," in which any person engaged in the business of lumbering or getting out timber as aforesaid, may have his timber mark registered by depositing with the Minister a drawing or impression and description in duplicate of such timber mark, together with a declaration that the same is not and was not in use, to his knowledge, by any other person than himself at the time of his adoption thereof; and the Minister, on receipt of the fee hereinafter provided, shall cause the said timber mark to be examined, to ascertain whether it resembles any other mark already registered; and if he finds that such mark is not identical with, or does not so closely resemble any other timber mark already registered as to be confounded therewith, he shall register the same, and shall return to the proprietor thereof one copy of the drawing and description, with a certificate signed by the Minister or the deputy of the Minister of Agriculture, to the effect that the said mark has been duly registered in accordance with the provisions of this Act; and such certificate shall further set forth the day, month and year of the entry thereof, in the proper register; and every such certificate shall be received in all courts in Canada as evidence of the facts therein alleged, without proof of the signature. 33 V., c. 36, s. 2.

3. The person who registers such timber marks shall there-

after have the exclusive right to use the same, to designate the timber got out by him and floated or rafted as aforesaid. 33 V., c. 36, s. 4.

4. Any person who has registered a timber mark may petition for the cancellation of the same, and the Minister may, on receiving such petition, cause the said mark to be cancelled; and the same shall, after such cancellation, be considered as if it had never been registered under the name of the said person. 33 V., c. 36, s. 5.

5. Every timber mark registered at the Department of Agriculture shall be assignable in law; and on the production of the assignment and the payment of the fee hereinafter mentioned, the Minister shall cause the name of the assignee, with the date of the assignment and such other details as he sees fit, to be entered on the margin of the register of timber marks on the folio where such mark is registered. 33 V., c. 36, s. 6.

6. If any person makes application to register, as his own, any timber mark which is already registered, the Minister shall give notice of the fact to such person, who may then select some other mark and forward the same for registration. 33 V., c. 36, s. 7.

7. Every person, other than the person who has registered the same, who marks any timber of any description with any mark registered under the provisions of this Act, or with any part of such mark, shall, on summary conviction before two justices of the peace, be liable, for each offense, to a penalty not exceeding one hundred dollars and not less than twenty dollars,—which amount shall be paid to the proprietor of such mark, together with the costs incurred in enforcing and recovering the same: Provided always, that every complaint under this section shall be made by the proprietor of such timber mark, or by some one acting on his behalf, and thereunto duly authorized. 33 V., c. 36, s. 8.

8. The following fees shall be payable, that is to say:—

On every application to register a timber mark,

including certificate ..... \$2 00

For each certificate of registration not already

provided for ..... 0 50

For each copy of any drawing,—the reasonable

expenses of preparing the same.

For recording any assignment..... 1 00

And such fees shall be paid over by the Minister of Agriculture to the Minister of Finance and Receiver General, and shall form part of the Consolidated Revenue Fund of Canada. 33 V., c. 36, s. 9.

9. The Minister may, from time to time, subject to the approval of the Governor in Council, make rules and regulations and adopt forms for the purposes of this Act. 33 V., c. 36, s. 3.

“THE COPYRIGHT ACT” AND AMENDMENTS  
THERETO;

CHAPTER 62.

*An Act respecting Copyright.*

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE.

1. This Act may be cited as “*The Copyright Act.*” 38 V., c. 88, s. 31.

INTERPRETATION.

2. In this Act, unless the context otherwise requires,—

(a.) The expression “the Minister” means the Minister of Agriculture;

(b.) The expression “The Department” means the Department of Agriculture;

(c.) The expression “legal representatives” includes heirs, executors, administrators and assigns or other legal representatives.

REGISTERS OF COPYRIGHTS.

3. The Minister of Agriculture shall cause to be kept, at the Department of Agriculture, books to be called the “Registers of copyrights” in which proprietors of literary, scientific and artistic works or compositions, may have the same registered in accordance with the provisions of this Act. 38 V., c. 88, s. 1.

## SUBJECTS OF COPYRIGHT AND CONDITIONS TO BE COMPLIED WITH.

4. Any person domiciled in Canada or in any part of the British possessions, or any citizen of any country which has an International copyright treaty with the United Kingdom, who is the author of any book, map, chart or musical composition, or of any original painting, drawing, statue, sculpture or photograph, or who invents, designs, etches, engraves or causes to be engraved, etched or made from his own design, any print or engraving, and the legal representatives of such person or citizen, shall have the sole and exclusive right and liberty of printing, reprinting, publishing, reproducing and vending such literary, scientific or artistic works or compositions, in whole or in part, and of allowing translations to be printed or reprinted and sold, of such literary works from one language into other languages, for the term of twenty-eight years, from the time of recording the copyright thereof in the manner hereinafter directed. 38 V., c. 88, s. 4, *part*.

5. The condition for obtaining such copyright shall be that the said literary, scientific or artistic works shall be printed and published or reprinted and republished in Canada, or in the case of works of art that they shall be produced or reproduced in Canada, whether they are so published or reproduced for the first time, or contemporaneously with or subsequently to publication or production elsewhere; but in no case shall the said sole and exclusive right and liberty in Canada continue to exist after it has expired elsewhere;

2. No immoral, licentious, irreligious, or treasonable or seditious literary, scientific or artistic work shall be the legitimate subject of such registration or copyright. 38 V., c. 88, s. 4, *part*.

6. Every work of which the copyright has been granted and is subsisting in the United Kingdom, and copyright of which is not secured or subsisting in Canada, under any Act of the Parliament of Canada, or of the legislature of the late Province of Canada, or of the legislature of any of the Provinces forming part of Canada, shall, when printed, and published, or reprinted and republished in Canada, be entitled to copyright under this Act; but nothing in this Act shall be held

to prohibit the importation from the United Kingdom of copies of any such work lawfully printed there;

2. If any such copyright work is reprinted subsequently to its publication in the United Kingdom, any person who has, previously to the date of entry of such work upon the registers of copyright, imported any foreign reprints, may dispose of such reprints by sale or otherwise; but the burden of proof of establishing the extent and regularity of the transaction shall, in such case, be upon such person. 38 V., c. 88, s. 15.

7. Any literary work intended to be published in pamphlet or book form, but which is first published in separate articles in a newspaper or periodical, may be registered under this Act while it is so preliminarily published, if the title of the manuscript and a short analysis of the work are deposited at the department, and if every separate article so published is preceded by the words "Registered in accordance with the Copyright Act," but the work, when published in book or pamphlet form, shall be subject, also, to the other requirements of this Act. 38 V., c. 88, s. 10, *part*.

8. If a book is published anonymously, it shall be sufficient to enter it in the name of the first publisher thereof, either on behalf of the un-named author, or on behalf of such first publisher, as the case may be. 38 V., c. 88, s. 25.

9. No person shall be entitled to the benefit of this Act, unless he has deposited at the department three copies of such book, map, chart, musical composition, photograph, print, cut or engraving, and in the case of paintings, drawings, statuary and sculpture, unless he has furnished a written description of such works of art; and the Minister shall cause the copyright of the same to be recorded forthwith in a book to be kept for that purpose, in the manner adopted by him, or prescribed by the rules and forms made, from time to time, as herein provided. 38 V., c. 88, s. 7.

10. The Minister shall cause one of such three copies of such book, map, chart, musical composition, photograph, print, cut or engraving, to be deposited in the Library of the Parliament of Canada and one in the British Museum. 38 V., c. 88, s. 8.

11. It shall not be requisite to deliver any printed copy of

the second or of any subsequent edition of any book unless the same contains very important alterations or additions. 38 V., c. 88, s. 26.

12. No person shall be entitled to the benefit of this Act unless he gives information of the copyright being secured, by causing to be inserted in the several copies of every edition published during the term secured, on the title-page, or on the page immediately following, if it is a book,—or if it is a map, chart, musical composition, print, cut, engraving or photograph, by causing to be impressed on the face thereof, or if it is a volume of maps, charts, music, engravings or photographs upon the title-page or frontispiece thereof the following words, that is to say: "Entered according to Act of the Parliament of Canada, in the year     , by A. B., at the Department of Agriculture;" but as regards paintings, drawings, statuary and sculptures, the signature of the artist shall be deemed a sufficient notice of such proprietorship. 38 V., c. 88, s. 9.

13. The author of any literary, scientific or artistic work or his legal representatives, may, pending the publication or republication thereof in Canada, obtain an interim copyright therefor by depositing at the department a copy of the title or a designation of such work, intended for publication or republication in Canada,—which title or designation shall be registered in an interim copyright register at the said department,—to secure to such author aforesaid or his legal representatives, the exclusive rights recognized by this Act, previous to publication or republication in Canada, but such interim registration shall not endure for more than one month from the date of the original publication elsewhere, within which period the work shall be printed or reprinted and published in Canada:

2. In every case of interim registration under this Act the author or his legal representatives shall cause notice of such registration to be inserted once in the *Canada Gazette*. 38 V., c. 88, s. 10, *part*.

14. The application for the registration of an interim copyright, of a temporary copyright and of a copyright, may be made in the name of the author or of his legal representatives, by any person purporting to be the agent of such author or legal representatives; and any damage caused by a fraudu-

lent or an erroneous assumption of such authority shall be recoverable in any court of competent jurisdiction. 38 V., c. 88, s. 23, *part*.

#### ASSIGNMENTS AND RENEWALS.

15. The right of an author of a literary, scientific or artistic work, to obtain a copyright, and the copyright when obtained, shall be assignable in law, either as to the whole interest or any part thereof, by an instrument in writing, made in duplicate, and which shall be registered at the department on production of both duplicates and payment of the fee hereinafter mentioned:

2. One of the duplicates shall be retained at the department, and the other shall be returned, with a certificate of registration, to the person depositing it. 38 V., c. 88, s. 18.

16. Whenever the author of a literary, scientific or artistic work or composition which may be the subject of copyright, has executed the same for another person, or has sold the same to another person for due consideration, such author shall not be entitled to obtain or to retain the proprietorship of such copyright, which is, by the said transaction, virtually transferred to the purchaser,—and such purchaser may avail himself of such privilege, unless a reserve of the privilege is specially made by the author or artist in a deed duly executed. 38 V., c. 88, s. 16.

17. If, at the expiration of the said term of twenty-eight years, the author, or any of the authors (when the work has been originally composed and made by more than one person), is still living, or if such author is dead and has left a widow or a child, or children living, the same sole and exclusive right and liberty shall be continued to such author, or to such authors still living, or, if dead, then to such widow and child or children, as the case may be, for the further term of fourteen years; but in such case, within one year after the expiration of such term of twenty-eight years, the title of the work secured shall be a second time registered, and all other regulations herein required to be observed in regard to original copyrights shall be complied with in respect to such renewed copyright. 38 V., c. 88, s. 5.

18. In all cases of renewal of copyright under this Act, the

author or proprietor shall, within two months from the date of such renewal, cause notice of such registration thereof to be published once in the *Canada Gazette*. 38 V., c. 88, s. 6.

#### CONFLICTING CLAIMS TO COPYRIGHT.

19. In case of any person making application to register as his own, the copyright of a literary, scientific or artistic work already registered in the name of another person, or in case of simultaneous conflicting applications or of an application made by any person other than the person entered as proprietor of a registered copyright, to cancel the said copyright, the person so applying shall be notified by the Minister that the question is one for the decision of a court of competent jurisdiction, and no further proceedings shall be had or taken by the Minister concerning the application until a judgment is produced maintaining, cancelling, or otherwise deciding the matter:

2. Such registration, cancellation or adjustment of the said right shall then be made by the Minister in accordance with such decision. 38 V., c. 88, s. 19.

3. The Exchequer Court of Canada shall be a competent court within the meaning of this Act, and shall have jurisdiction to adjudicate upon any question arising under this section, upon information in the name of the Attorney General of Canada, or at the suit of any person interested. 53 V., c. 12; 54-55 V., c. 34.

#### INFRINGEMENT OF COPYRIGHT.

20. Every person who, without the consent of the author or lawful proprietor thereof first obtained, prints or publishes, or causes to be printed or published, any manuscript not previously printed in Canada or elsewhere, shall be liable to the author or proprietor for all damages occasioned by such publication, and the same shall be recoverable in any court of competent jurisdiction. 38 V., c. 88, s. 3.

#### LICENSE TO REPUBLISH.

21. If a work copyrighted in Canada becomes out of print, a complaint may be lodged by any person with the Minister,

who on the fact being ascertained to his satisfaction, shall notify the owner of the copyright of the complaint and of the fact; and if, within a reasonable time no remedy is applied by such owner, the Minister may grant a license to any person to publish a new edition or to import the work, specifying the number of copies and the royalty to be paid on each to the owner of the copyright. 38 V., c. 88, s. 22.

#### FEES

22. The following fees shall be paid to the Minister before an application for any of the purposes herein mentioned is received, that is to say:

|   |        |
|---|--------|
| On registering a copyright.....   | \$1 00 |
| On registering an interim copyright.....                                | 0 50   |
| On registering a temporary copyright.....                               | 0 50   |
| On registering an assignment.....                                       | 1 00   |
| For a certified copy of registration.....                               | 0 50   |
| On registering any decision of a court of justice, for every folio..... | 0 50   |

For office copies of documents not above mentioned, the following charges shall be made:—

|   |        |
|---|--------|
| For every single or first folio, certified copy....   | \$0 50 |
| For every subsequent hundred words, fractions under or not exceeding fifty, not being counted, and over fifty being counted for one hundred ..... | 0 25   |

2. The said fees shall be in full of all services performed under this Act by the Minister or by any person employed by him under this Act:

3. All fees received under this Act shall be paid over to the Minister of Finance and Receiver General, and shall form part of the Consolidated Revenue Fund of Canada:

4. No person shall be exempt from the payment of any fee or charge payable in respect of any services performed under this Act for such person, and no fee paid shall be returned to the person who paid it. 38 V., c. 88, s. 28.

#### GENERAL PROVISIONS.

23. Nothing herein contained shall prejudice the right of

any person to represent any scene or object, notwithstanding that there may be copyright in some other representation of such scene or object. 38 V., c. 88, s. 14.

24. Newspapers and magazines published in foreign countries, and which contain, together with foreign original matter, portions of British copyright works republished with the consent of the author or his legal representatives, or under the law of the country where such copyright exists, may be imported into Canada. 38 V., c. 88, s. 10, *part*.

25. Clerical errors which occur in the framing or copying of any instrument drawn by any officer or employee in or of the department shall not be construed as invalidating such instrument but when discovered they may be corrected under the authority of the Minister. 38 V., c. 88, s. 20.

26. All copies or extracts certified, from the department, shall be received in evidence, without further proof and without production of the originals. 38 V., c. 88, s. 21.

27. The Minister may, from time to time, subject to the approval of the Governor in Council, make such rules and regulations, and prescribe such forms, as appear to him necessary and expedient for the purposes of this Act; and such regulations and forms, circulated in print for the use of the public, shall be deemed to be correct for the purposes of this Act; and all documents, executed and accepted by the Minister, shall be held valid, so far as relates to all official proceedings under this Act. 38 V., c. 88, s. 2.

#### OFFENSES AND PENALTIES.

28. Every person who wilfully makes or causes to be made any false entry in any of the registry books hereinbefore mentioned of the Minister, or who wilfully produces or causes to be tendered in evidence, any paper, which falsely purports to be a copy of an entry in any of the said books, is guilty of a misdemeanor, and shall be punished accordingly. 38 V., c. 88, s. 24.

29. Every person who fraudulently assumes authority to act as agent of the author or of his legal representative for the registration of a temporary copyright, an interim copyright, or a copyright, is guilty of a misdemeanor and shall be punished accordingly. 38 V., c. 88, s. 23, *part*.

30. Every person who, after the interim registration of the title of any book according to this Act, and within the term herein limited, or after the copyright is secured and during the term or terms of its duration, prints, publishes, or reprints or republishes, or imports, or causes to be so printed, published or imported, any copy of any translation of such book without the consent of the person lawfully entitled to the copyright thereof, first had and obtained by assignment, or who, knowing the same to be so printed or imported, publishes, sells or exposes for sale, or causes to be published, sold or exposed for sale, any copy of such book without such consent, shall forfeit every copy of such book to the person then lawfully entitled to the copyright thereof; and shall forfeit and pay for every such copy which is found in his possession, either being printed or reprinted, published, imported or exposed for sale, contrary to the provisions of this Act, such sum, not exceeding one dollar and not less than ten cents, as the court determines,—which forfeiture shall be enforceable or recoverable in any court of competent jurisdiction; and moiety of such sum shall belong to Her Majesty for the public uses of Canada, and the other moiety shall belong to the lawful owner of such copyright. 38 V., c. 88, s. 11.

31. Every person who, after the registering of any painting, drawing, statue or work of art, and within the term or terms limited by this Act, reproduces in any manner, or causes to be reproduced, made or sold, in whole or in part, any copy of any such work of art, without the consent of the proprietor, shall forfeit the plate or plates on which such reproduction has been made, and every sheet thereof so reproduced, to the proprietor of the copyright thereof; and shall also forfeit for every sheet of such reproduction published or exposed for sale, contrary to this Act, such sum, not exceeding one dollar and not less than ten cents as the court determines,—which forfeiture shall be enforceable or recoverable in any court of competent jurisdiction; and a moiety of such sum shall belong to Her Majesty for the public uses of Canada, and the other moiety shall belong to the lawful owner of such copyright. 38 V., c. 88, s. 12.

32. Every person who, after the registering of any print, cut or engraving, map, chart, musical composition, or photograph, according to the provisions of this Act, and within the

term or terms limited by this Act, engraves, etches or works, sells or copies, or causes to be engraved, etched or copied, made or sold, either as a whole or by varying, adding to or diminishing the main design, with intent to evade the law, or who prints or reprints or imports for sale, or causes to be so printed or reprinted or imported for sale, any such map, chart, musical composition, print, cut or engraving, or any part thereof, without the consent of the proprietor of the copyright thereof first obtained as aforesaid, or who, knowing the same to be so reprinted, printed or imported without such consent, publishes, sells or exposes for sale, or in any manner disposes of any such map, chart, musical composition, engraving, cut, photograph or print, without such consent as aforesaid, shall forfeit the plate or plates on which such map, chart, musical composition, engraving, cut, photograph or print has been copied, and also every sheet thereof, so copied or printed as aforesaid, to the proprietor of the copyright thereof; and shall also forfeit, for every sheet of such map, musical composition, print, cut or engraving found in his possession, printed or published or exposed for sale, contrary to this Act, such sum, not exceeding one dollar and not less than ten cents, as the court determines,—which forfeiture shall be enforceable or recoverable in any court of competent jurisdiction; and a moiety of such sum shall belong to Her Majesty for the public uses of Canada, and the other moiety shall belong to the lawful owner of such copyright. 38 V., c. 88, s. 13.

33. Every person who has not lawfully acquired the copyright of a literary, scientific or artistic work, and who inserts in any copy thereof printed, produced, reproduced or imported, or who impresses on any such copy, that the same has been entered according to this Act, or words purporting to assert the existence of a Canadian copyright in relation thereto, shall incur a penalty not exceeding three hundred dollars:

2. Every person who causes any work to be inserted in the register of interim copyright and fails to print and publish or reprint and republish the same within the time prescribed, shall incur a penalty not exceeding one hundred dollars:

3. Every penalty incurred under this section shall be recoverable in any court of competent jurisdiction; and a moiety thereof shall belong to Her Majesty for the public uses of

Canada, and the other moiety shall belong to the person who sues for the same. 38 V., c. 88, s. 17.

34. No action or prosecution for the recovery of any penalty under this Act, shall be commenced more than two years after the cause of action arises. 38 V., c. 88, s. 27.

## CHAPTER 25.

### *An Act to amend the Copyright Act.*

Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

1. If a book as to which there is subsisting copyright under *The Copyright Act* has been first lawfully published in any part of Her Majesty's dominions other than Canada, and if it is proved to the satisfaction of the Minister of Agriculture that the owner of the copyright so subsisting and of the copyright acquired by such publication has lawfully granted a license to reproduce in Canada, from movable or other types, or from stereotype plates, or from electro-plates, or from lithograph stones, or by any process for facsimile reproduction, an edition or editions of such book designed for sale only in Canada, the Minister may, notwithstanding anything in *The Copyright Act*, by order under his hand, prohibit the importation, except with the written consent of the licensee, into Canada of any copies of such books printed elsewhere; provided that two such copies may be specially imported for the *bonâ fide* use of any public free library or any university or college library, or for the library of any duly incorporated institution or society for the use of the members of such institution or society.

2. The Minister of Agriculture may at any time in like manner, by order under his hand, suspend or revoke such prohibition upon importation if it is proved to his satisfaction that—

(a) the license to reproduce in Canada has terminated or expired; or

(b) the reasonable demand for the book in Canada is not sufficiently met without importation; or

(c) the book is not, having regard to the demand therefor in Canada, being suitably printed or published; or

(d) any other state of things exists on account of which it is not in the public interest to further prohibit importation.

3. At any time after the importation of a book has been prohibited under section 1 of this Act, any person resident or being in Canada may apply, either directly or through a bookseller or other agent, to the person so licensed to reproduce such book, for a copy of any edition of such book then on sale and reasonably obtainable in the United Kingdom or some other part of Her Majesty's dominions, and it shall then be the duty of the person so licensed, as soon as reasonably may be, to import and sell such copy to the person so applying therefor, at the ordinary selling price of such copy in the United Kingdom or such other part of Her Majesty's dominions, with the duty and reasonable forwarding charges added; and the failure or neglect, without lawful excuse, of the person so licensed to supply such copy within a reasonable time, shall be a reason for which the Minister may, if he sees fit, suspend or revoke the prohibition upon importation.

4. The Minister shall forthwith inform the Department of Customs of any order made by him under this Act.

5. All books imported in contravention of this Act may be seized by any officer of Customs, and shall be forfeited to the Crown and destroyed; and any person importing, or causing or permitting the importation, of any books in contravention of this Act shall, for each offense, be liable, upon summary conviction, to a penalty not exceeding one hundred dollars.

RULES  
OF THE  
DEPARTMENT OF AGRICULTURE  
RESPECTING  
"THE COPYRIGHT ACT."

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GENERAL RULES.

I.

There is no necessity for any personal appearance at the Department of Agriculture, unless specially called for by order

of the Minister or of the Deputy, every transaction being carried on by writing.

## II.

In every case the applicant or depositor of any paper is responsible for the merits of his allegations and of the validity of instrument furnished by him or his agent.

## III.

The correspondence is carried on with the applicant, or with the agent who has remitted or transmitted the paper to the office, but with one person only.

## IV.

All papers are to be clearly and neatly written on foolscap paper, and every word of them is to be distinctly legible, in order that no difficulty should be met with in the taking cognizance of, and in the registering and copying them.

## V.

All copies of books deposited in accordance with section 9 of "The Copyright Act," must be furnished with board covers or full bound, and all copies of maps deposited must be mounted.

## VI.

All communications to be addressed in the following words: "To the Minister of Agriculture, (Copyright Branch), Ottawa.

## VII.

In preparing an assignment in duplicate, pursuant to section 15 of "The Copyright Act," care should be taken to allow on the back of the document a sufficient space for the insertion of the certificate.

## VIII.

As regards proceedings not specially provided for in the following forms, any form being conformable to the letter and spirit of the law will be accepted, and if not conformable will be returned for correction.

## IX.

A copy of the Act and the Rules with a particular section marked, sent to any person making an inquiry is intended as a respectful answer by the office.

## CHILE.

### PATENT AND TRADE MARK LAWS.

#### I.

##### *Preliminary Remarks.*

Article 152 of the Chilean Constitution, of May 25, 1833, guarantees to every author or inventor the exclusive ownership of his work or invention for the time which the law may establish. If it should be found necessary for the Government to cause the work or invention to become public property, due indemnification shall be paid to the author or inventor.

#### II.

##### *Law of September 9, 1840.*

ARTICLE 1. The author or inventor of an art, manufacture, machine, instrument, combination of substances, or any improvement of a former invention, who may desire to enjoy the exclusive ownership secured for him by article 152 of the Constitution, shall apply to the Secretary of the Interior, giving a truthful, clear, and succinct description of the work or invention, stating under oath that it is his own discovery and is unknown in the country. Together with his application he shall submit samples, drawings, or models according to the nature of the case, and thereupon request that a patent be issued in his favor in order to prove said ownership.

ART. 2. The Secretary of the Interior shall appoint a committee of one or more experts whose duty it shall be to examine the work or invention and report as to its originality. The members of this committee shall, in the presence of the inventor, take the oath of faithfully fulfilling their duties, and religiously keeping the secret communicated to them.

ART. 3. Upon proof of the originality the President of the Republic shall grant the exclusive privilege requested, which shall last for a term not exceeding ten years; and he shall cause the proper patent to be issued, which shall be authorized by his signature and the seal of the republic.

ART. 4. This patent shall be recorded in full in a book to be kept for that purpose in the Department of the Interior.

ART. 5. Before delivering the patent to the applicant, the latter shall prove by exhibiting the proper receipt to have paid into the National Treasury the sum of \$50, and to have deposited in the National Museum the samples, drawings, or models, and a specification, satisfactory to the committee, and authorized by the signature of one of its members, containing a description of the invention, said description to be in full and sufficient to distinguish the latter from all others known and used up to that time. This specification shall explain also the principles and processes utilized by the applicant for the working of his invention, so as to enable any other person having knowledge of these matters to use the same invention to the benefit of the public after the time of the patent expires. This specification shall be inclosed in the presence of the committee in a sealed envelope, upon which the title or object of the privilege shall be written. The applicant shall write at the foot of this inscription that he faithfully fulfilled the obligation imposed by this article, and the committee shall certify as to his signature. During the time of the privilege the patentee shall have the right to inspect as often as he desires the said envelope in order to ascertain whether the seal has or has not been broken or tampered with.

ART. 6. A room shall be set apart in the National Museum for the preservation of the samples, drawings, or models, and there shall be also a safe wherein the sealed envelopes referred to in the foregoing article shall be kept. The said envelopes shall never be opened during the time of the patent or privilege, except in the cases set forth in articles 11, 12, and 15.

ART. 7. The sum of \$50 to be paid under article 5 shall be destined to defray the expenses of the proper arrangement and preservation of the room in the Museum where these collections are to be kept.

ART. 8. Patents for the introduction of arts, industries, or machines invented in other nations and entirely unknown or not established or used in Chile, may be obtained under the same terms and conditions as have been established for patents of invention. The time of the privilege shall, nevertheless, be shorter in the case of importations. Under no circumstances

shall the latter exceed eight years, and the time of the duration shall be fixed by the Department of the Interior, upon the advice of the committee, according to the utility and class of the importation. Simple changes of form or size in machines or inventions already established shall not be patentable.<sup>a</sup>

ART. 9. The ownership of a privilege or patent is transferable the same as that of any other property; but before a transfer is made notice shall be given to the Secretary of the Interior setting forth the reasons why the transfer is to be made. If said reasons are found to be good the transfer shall be entered in a book kept for that purpose; if not, the provisions of article 11 shall be carried into effect.

ART. 10. Any one who should without authority manufacture patented articles by the methods and processes appearing in the patent, shall pay a fine of not less than \$100 and not more than \$1,000, besides losing the manufactured articles and the machines, engines, instruments, or implements which he has used. The total amount thus realized shall be given, one-half to the Treasury and the other half to the patentee, who shall have also the right to claim damages against the infringer.

ART. 11. Patents obtained surreptitiously—that is to say, upon false testimony—or in the erroneous belief that the applicant is the inventor, or relating to industries already established in the country, in the same form and manner, shall be immediately canceled; and the patentee shall be condemned to pay the costs of the case, and punished with a fine of not more than \$1,000 and not less than \$100, and with imprisonment for not less than three nor more than twelve months.

ART. 12. If litigation should arise between different patentees, manufacturers of products of the same kind, the question shall be settled by arbitration, each party being bound to appoint an arbitrator and the Secretary of the Interior appointing on his part the umpire.

ART. 13. The privileges secured by the patents shall be either general, or for general use throughout the whole extent of the Republic, or limited to one, two, or more Provinces.

ART. 14. All patents shall set forth the time given the pat-

<sup>a</sup> The whole of this article has been abrogated by the law of July 25, 1872, which prohibited the granting of patents of importation.

entee for the establishment of the machines, engines, or manufactures. The duration of the patent shall begin to be counted at the expiration of that time.

ART. 15. If the time granted for the actual establishment of the new industry or business is allowed to pass unavailed, the privilege shall be forfeited. If the establishment takes place and the patentee fails to work the invention for over one year, or if the products of his invention are inferior to the samples or models filed with the application, the privilege shall also be forfeited.

ART. 16. No patent shall be renewed unless under extraordinary circumstances or upon sufficient proof that the patentee deserves to obtain the renewal, but in all cases the application for the renewal must be filed at least six months before the extinction of the privilege.

ART. 17. The provisions of the mining ordinances relating to privileges to be granted in this branch of the public wealth and the provisions of the law of July 24, 1, 1834, relating to the ownership of literary and artistic works, are not in any manner abrogated by the present law.<sup>a</sup>

### III.

#### *Law of 1872 amendatory of the foregoing.*

SOLE ARTICLE. Article 8 of the law of September 9, 1840, is hereby repealed.

### IV.

#### *Law of September 1, 1874.*

Article 6 of this law provides that the payment of patent fees be made with revenue stamps, and also that the fee of \$50 to be paid for patents or privileges shall be understood to be in the currency of the country.

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<sup>a</sup>The mining ordinances to which this article refers have been repealed by the mining code.

## V.

*Trade Mark law of November 12, 1874.*

ARTICLE 1. A register shall be kept for the inscription of trade marks, national and foreign.

ART. 2. The name of trade mark shall be given to any mark affixed to articles manufactured in Chile or in any foreign country by manufacturers or agriculturists. The name of commercial mark shall be given to those which a merchant adopts to distinguish the articles sold by him.

ART. 3. Proper names, emblems, and any other sign adopted by the manufacturer or merchant to distinguish the objects of his trade from all others shall be considered trade marks. Nevertheless, and in order to secure the proper legal effects, the initials "M. de F." (marca de fabrica, or trade mark) shall be added to the trade mark. The initials "M. C." (marca comercial or commercial mark) shall be added to the commercial mark.

ART. 4. The name of a rural estate or establishment, mill, foundry, factory, etc., shall exclusively belong to the owner.

ART. 5. Whoever has registered the trade or commercial mark shall have the exclusive ownership thereof.

ART. 6. The transfer of a mark, or the permission given by the owner to some one else for making use of the same, shall be entered in the register, and announced to the public during a period of ten days.

ART. 7. The registration of all trade or commercial marks shall be renewed every ten years. Failure to renew them shall entail the extinction of the privilege.

ART. 8. The register referred to in article 1 shall be kept in the office of the National Society of Agriculture under the direction of its president or of a delegate appointed by the board of directors. In the latter case the delegate shall be a member of said board.

ART. 9. The entry to be made in the register shall set forth the day and hour on which the inscription is made, the name of the owner of the mark, his occupation and domicile, the place in which his factory is established, and the kind of industry or commerce for which the mark is intended. A facsimile of the mark shall be appended to this entry. Each

entry shall also set forth the number affixed to the mark exhibited and all other information which may be deemed necessary. The entry, as well as the copy thereof to be given the interested parties, shall be signed by the president of the National Society of Agriculture or his delegate, by the owner of the mark, and by two witnesses.

ART. 10. The fees to be paid to the National Society of Agriculture for the registration of marks as aforesaid, shall be as follows: Trade marks, \$12; commercial marks, \$3; certified copy of the entry, \$1.

ART. 11. Counterfeitors of trade marks and anyone who may use them fraudulently shall incur the penalties established by the Penal Code.

ART. 12. Articles bearing counterfeited marks shall be confiscated to the benefit of the legitimate owner. The instruments for the counterfeiting shall be destroyed.

ART. 13. During the month of August of every year a list of the marks registered up to that time shall be published.

## VI.

*Law of October 24, 1898.*

**SOLE ARTICLE.** In the proceedings instituted to enforce the responsibility established by article 11 of the law of November 12, 1874, the tribunals shall decide upon moral evidence according to their conscience whether the counterfeiting, adulteration, or fraudulent use of the trade mark has or has not been committed, even though it appears *prima facie* that the registered mark and the one which gave occasion to the proceedings are different.

## COLOMBIA.

### PATENT LAW OF MAY 13, 1869.

#### I.

ARTICLE 1. All new discoveries or inventions, in whatever kind of industry, give the inventor, under the conditions and for the time mentioned in this law, a right to the exclusive benefit of his invention or discovery. This right is secured by grants issued by the Executive power of the Union, under the name of "patents of invention."

ART. 2. Any Colombian or foreigner who shall invent or improve any machine, mechanical contrivance, combination of materials, or process useful to industry, arts, or sciences, or any manufacture or industry, may obtain a patent from the Executive power, securing to him or to his lawful representatives, for a term of from five to twenty years, the exclusive right to make, sell, or use his discovery or invention.

ART. 3. No privileges shall be granted for the importation from foreign countries of natural or manufactured products.

ART. 4. Inventors who have obtained a patent in a foreign country and should also apply for it in Colombia may obtain it if the invention in question has not already become public property. A patent granted in Colombia for an invention which has already been patented in a foreign country shall expire at the same time as the foreign patent.

ART. 5. In order to obtain a patent of invention or improvement the person interested therein shall apply either personally or through his attorney to the Executive power, specifying his invention or improvement, explaining it with clearness, and asking for the patent to be granted to him. If the said patent is granted, he is required to furnish, before the patent is given to him, and within forty days, an exact drawing or model of the machine or mechanical contrivance invented by him, or a full and detailed description of the new method or process, or a sample of the article, as permitted by the nature of the case, in order that said exhibits may be deposited in the corre-

sponding department of the Government, to be used in case any questions arise touching the patent.

ART. 6. Every patent shall contain a copy of the present law and of the Executive decree granting the privilege, and shall specify the invention, improvement, or new industry, and the term of its duration, and shall declare the patentee to be in possession of said privilege, and it shall be published twice at least in the Official Gazette.

ART. 7. A patent of invention or improvement shall be granted without previous inquiry as to the usefulness of the article or as to whether it be really an invention or improvement. The Government does not declare on issuing a patent that the invention or improvement is genuine or useful, that the patentee is the actual inventor, that the article is a new one, or that the descriptions or models are correct. Those who are interested in the matter are at liberty to prove the contrary before the courts.

The Executive power shall publish through the Official Gazette all applications for patents. Between this publication and the issue of the patent thirty days shall intervene.

ART. 8. No patent shall be granted if all the formalities required by this law are not fulfilled, if the invention, improvement, or new industry should endanger public health or security, or if it is against good morals or existing rights.

ART. 9. When the term for which a patent is granted expires the manufacture, sale, or use of the patented invention or improvement shall become free; the descriptions furnished by the inventor shall be published, and copies of the respective drawings or models may be had on application at the expense of the person asking for them. This shall likewise take place when, before the expiration of the term, the patent is declared null and void.

ART. 10. Infringements of patents, or other offenses against the ownership of the patented articles or industries, shall be prosecuted in accordance with the penal laws of the Union.

ART. 11. Besides the case mentioned in article 4, patents shall become void when they have been granted to the prejudice of a third party, this point to be decided by the State courts.

ART. 12. A patent for a new industry shall also be void when

said industry is not practiced during a whole year, unless unavoidable circumstances have intervened to prevent it.

ART. 13. On receiving the patent the patentee shall pay into the National Treasury a fee of from \$5 to \$10 for every year of the privilege. The applicant shall fix a term for its duration within the maximum established, and shall deposit at the Treasury the sum of \$10, which he shall forfeit if the patent is refused, and which shall be taken in part payment of the fee if it is granted.

ART. 14. The law of May 15, 1848, respecting patents of invention or improvement of machines and industrial apparatus is hereby repealed.

## II.

### *Decree of November 22, 1900, on patents and trade marks.*

I, the Vice-President of the Republic, acting as Chief Magistrate of the same, in use of my constitutional powers, and considering that the always increasing number of applications for patents of privileges of invention and certificates of registration of trade marks justifies the belief that the Government may, by raising the patent fees, which are now very low, and by levying other fees on the trade mark certificates, the Government might increase its resources and be in better condition to meet the expenses which the present state of war necessitates, do hereby decree:

ARTICLE 1. On and after the date of the present decree the fee established by article 13 of the law of March 13, 1869, is hereby raised to \$20. The deposit which, under the provisions of the same article is to be made, shall henceforth be \$20, which the applicant shall lose in favor of the Treasury if the patent is not granted, or shall be accredited to him in part of payment of the last fee if it is granted.

*Paragraph.*—When the patent is asked for the purpose of securing the exclusive use of any invention or improvement of machines, mechanical apparatuses, combination of substances, methods or processes of useful application to industry, arts, or sciences, or of some manufactured article or industrial product belonging to Colombian citizens or to foreigners residing in Colombia, which may be considered as a national invention or

improvement, the fee to be charged shall be from \$5 to \$20, according to circumstances, as the Secretary of the Treasury shall decide.

ART. 2. In addition to the fee established in the foregoing article the applicant shall pay into the National Treasury as final patent fee the sum of \$50.

ART. 3. A fee of \$50 shall be charged for the registration of each trade mark when industrial and of \$30 when commercial.

ART. 4. No final patent of privilege or certificate of registration shall be issued except upon proof that the fees above established have been paid into the National Treasury.

ART. 5. Applications for patents and trade mark certificates which may be now on file in the respective offices, and have not been as yet acted upon, shall be subject to the provisions of the present decree, except in case that the liquidation of the fees has been already made.

### III.

*Decree of March 14, 1902, amending the decree of November 22, 1900.*

I, the Vice-President of the Republic, Acting Chief Magistrate of the same, in use of my constitutional powers, and considering that the urgent necessities resulting from the present situation of the country compel the Government to devise, within the limits of its legal powers, the means which are required to meet its obligations, do hereby decree:

ARTICLE 1. On and after the 1st of April next the fees to be paid for patents intended to secure the exclusive use of an invention or improvement of machines, mechanical apparatuses, combinations of substances, methods or processes of useful application to the industry, the arts, or the sciences, or of some manufactured article or industrial product, shall be from \$10 to \$200 per annum during the life of the privilege. The amount shall be fixed, according to the nature of the case, by the Secretary of the Treasury.

ART. 2. The fee for the registration of trade marks shall be \$100 when the marks are industrial and \$60 when commercial.

ART. 3. The decree of November 22, 1900, on patents and

trade marks shall continue to be observed and obeyed as amended by the present one.

#### IV.

##### *Trade mark law.*

[November 23, 1900.]

I, the Vice-President of the Republic, Acting Chief Magistrate of the same, in use of my constitutional powers, considering (1) that the applications for certificates of registration of trade marks filed before the Government are numerous and frequent; (2) that the Colombian laws, different from those of other countries, have not established, as yet, the course of proceedings to be followed for securing protection of the rights of the manufacturers and causing the genuine origin of the goods or articles to be known; (3) and that it has become necessary, until Congress may enact the proper legislation on the subject, to fix at least what must be done by the applicants and by the respective executive officers in cases that applications are made for certificates of registration, do hereby decree:

ARTICLE 1. Every Colombian citizen or foreigner who is the owner of a trade mark shall acquire the exclusive right to use it in the territory of the Republic by fulfilling the formality of having it registered at the respective office, and for that purpose he shall submit himself to the following course of procedure:

1. He shall file, either personally or through an attorney, a petition to the Treasury Department, asking for the registration of his trade mark, clearly explaining the distinctive sign which he wishes to use, the article or product to which it refers, and the place where said article or product is manufactured.

2. The application referred to in the preceding paragraph shall be written on stamped paper of the third class, and shall be accompanied by two copies, at least, of the trade mark, or the representation thereof by means of a drawing or engraving, signed by the applicant, bearing the same date as the application. A revenue stamp of class first shall be affixed to each copy.

3. The application shall be published in the "Diario Oficial,"

and thirty days thereafter, if no opposition is made, the registration of the trade mark, if industrial, shall take place.

The interested party shall then be provided with a certificate of registration, which shall be evidence of his exclusive ownership of the mark. This certificate shall be published three times in the "Diarrio Oficial."

ART. 2. The cost of publication of the application and certificate shall be borne by the applicant.

ART. 3. If the trade mark whose registration is requested is commercial, the course of proceedings shall be the same described in article 1; but the certificate shall not be issued until sixty days have elapsed from the date of publication of the application.

ART. 4. Industrial trade marks shall be, for the purpose of the present decree, all phrases or signs employed to distinguish a special product destined to industry or commerce. Commercial marks shall be those phrases or distinctive signs to be used by a merchant or a business house.

ART. 5. Powers of attorney executed in foreign countries, authorizing anyone in Colombia to ask for the registration of trade marks, shall have to be authenticated in due form by the respective minister or consular agent of the Republic in the place of execution, provided that Colombia has accredited such officials in the country or place where the power of attorney is executed.

ART. 6. Trade marks belonging to foreign individuals or companies not residing in Colombia shall not be admitted to registration, except in case that they are already registered, in due form and through the regular proceedings of law, in the country of origin, this registration to be proved by an authenticated copy of the original certificate. The copy shall be then attached, as an exhibit, to the application.

ART. 7. Individual persons or companies who first made use of a trade mark are the only ones entitled to acquire the ownership of the same. In case of dispute between two or more possessors of the same mark the ownership shall belong to the first owner. If the priority of possession can not be established, the ownership shall belong to the one who first applied to the respective office for the registration of the mark.

ART. 8. The registration of the trade marks, whether indus-

trial or commercial, shall be made, without previous examination of the usefulness of the object, or of the quality and properties of the products for which they are destined. Everything in this respect shall be under the exclusive responsibility of the applicant, and the rights of third parties shall always be preserved.

*Paragraph.*—Publication having been made in the “Diario Oficial” of the applicant’s petition, so as to allow anyone interested in the matter to come and make opposition to the granting of the certificate, and an opponent having in fact entered his appearance in due time, and made the proper representations on the subject, as provided in article 1 of the present decree, the Secretary of the Treasury shall render his decision in the case. This decision shall put an end to all executive proceedings. Parties not satisfied with the decision may make use of their rights before the courts of justice.

ART. 9. Counterfeitors of trade marks shall be subject to the penalties established in articles 663 and 664 of the Penal Code.

#### NOTE.

The decree of March 12, 1903, establishing a tariff of fees for the execution and registration of public instruments, etc., contains the following article:

“ART. 10. Two hundred dollars for patents of invention.”

This decree was put into practice on the 1st of April, 1903.

## COSTA RICA.

### PATENT LEGISLATION.

In Costa Rica the ownership of inventions and of all property of scientific, artistic, or literary character is protected by the provisions of a law of general character, known by the name of "law on intellectual property."

This law, enacted by the Costa Rican Congress on June 26, 1896, and approved by the Costa Rican President on the day following, contains four chapters wherein the subject of patents of inventions is properly regulated. The full text of these chapters is as follows:

#### CHAPTER VI.

##### *Ownership of the inventions.*

ART. 41. The inventors of commercial or manufactured articles, the improvers of the same, and the discoverers of new methods of fabrication, shall enjoy the ownership of their inventions, improvements, or discoveries for the period of twenty years.

ART. 42. The ownership of an invention shall be exclusively confined to the same article or object specified in the patent.

ART. 43. Inventions or discoveries relating to anything unlawful shall not be protected by this statute.

ART. 44. Foreign inventors shall be entitled to a patent covering a period of time, not to exceed that of the original concession, provided that said remainder is not more than twenty years.

ART. 45. It shall be lawful to ask for a patent for one or more improvements to articles or products already patented; but during the period of one year after the date of a patent none except the patentee himself or his assignee shall have the right to make any improvements to the patented article.

ART. 46. Applicants for patents for improvements shall be considered, as far as the granting of the patent is concerned, as if they were original inventors.

ART. 47. All the models, drawings, plans, or descriptions re-

quired from the applicants in order to grant them a patent of invention shall be gratuitously exhibited to all those who may wish to see them, and copies thereof shall be given upon payment of a moderate compensation.

ART. 48. Patents shall be annulled in the following cases:

1. When the invention or discovery to which they refer proves to be injurious to public health or safety or contrary to the laws.

2. When the existence of a patent of anterior date relating to the same identical matter is discovered.

3. When the invention or discovery covered by the patent proves to be something which the general public already knew, practically or theoretically, or had been divulged by some publication.

4. When the patent was obtained without due compliance with the formalities established by law.

5. When the title given to the invention covers some fraud, or is given to an object different from the one specified.

6. When, in cases of improvement, the improvement proves to be a mere change of form, ornamentation, or nonsubstantial modification of the original invention.

## CHAPTER VII.

ART. 49. To guarantee the rights of intellectual property two registers shall be kept, one at the office of the Director-General of Public Libraries, wherein all scientific, literary, or artistic property shall be entered, and another at the office of the Director-General of Public Works, wherein the inventions shall be recorded.

ART. 50. Authors or proprietors of scientific, literary, and artistic works shall file three copies of the same, authenticated by their signature, said copies to be kept, one at the office of the Director-General of Public Libraries, another at the National Library, and another at the Department of Public Instruction.

ART. 51. The Director-General of Public Libraries shall keep a book wherein the titles of all the works deposited shall be entered, chronologically.

ART. 52. The inscription of the works in the register of the Director-General of Public Libraries shall be communicated by

him for the purposes of the present law to the Secretary of Public Instruction.

ART. 53. Authors or inventors who should fail to comply with the formalities of inscription and deposit above required shall not be entitled to the benefits of the present law.

ART. 54. Authors shall have one year, to be counted from the day on which the printing of their work was finished, to comply with the requisites of inscription and deposit.

ART. 55. With regard to dramatic or musical works put on the stage, but not printed, the deposit of a manuscript copy, signed by the author or proprietor, shall be sufficient to insure the enjoyment of the benefits of the present law.

ART. 56. With regard to works of art, as paintings, statues, architectural models, or other works of this kind, the deposit of an engraving, drawing, or photograph representing it, in addition to the inscription, shall also be sufficient.

ART. 57. Inventors or proprietors of an invention shall have to file in the office of the Director-General of Public Works the plans, drawings, models, or descriptions required for the inscription of their invention.

ART. 58. After the inscription is made, the Director-General of Public Works shall give information of the fact to the Secretary of Fomento.

ART. 59. When the Secretary of Public Instruction or the Secretary of Fomento are officially informed of the inscription of a scientific, literary, or artistic work, or of an invention, they shall order a notice thereof to be published in the Diario Oficial, this publication to be made within eight days, to be counted from the date on which the information was received by them.

ART. 60. Scientific, literary, and artistic productions, and the inventions anterior in date to the present law shall enjoy the benefits of the same, if inscribed in the respective registers within six months, to be counted from the day on which the law goes into effect.

ART. 61. Authors or inventors who are now in the enjoyment of privileges granted to them by former laws shall enjoy the benefits of the present one, but the time of the concession shall be counted from the date on which it was granted.

ART. 62. The Executive power shall make such regulations

as may be found necessary for the proper registration of intellectual property.

## CHAPTER VIII.

### *Extinction of the ownership of intellectual property.*

ART. 63. Scientific, literary, or artistic works not registered within the time established by law shall become public property. Ten years thereafter the original owners, or their heirs, shall have the right to be reinstated in the ownership, by registering the work, in due form, within one year, to be counted from the expiration of the ten above named. But if they fail to do so within the said time the right of ownership shall be finally lost for them.

ART. 64. Scientific, literary, or artistic works not reprinted or reissued by their author, or owner, within a period of twenty-five years shall become public property.

ART. 65. Dramatic or musical works, registered and deposited as provided by article 55, shall become public property if not published within thirty years, to be counted from the date of registration.

ART. 66. Patents of invention shall become public property if not put into practice within two years, to be counted from the date of the inscription.

ART. 67. Patents of invention which are not used for three consecutive years shall become public property.

ART. 68. The power to declare that the ownership of scientific, literary, or artistic work is extinct belongs to the Secretary of Public Instruction, but the power to do so in regard to inventions and discoveries belongs to the Secretary of Fomento.

ART. 69. The extinction of the ownership shall be made known to the public in the official paper (*Diario Oficial*) within eight days after the date of the decree by which it was declared.

ART. 70. If the publication referred to in the preceding article is not made, any interested party shall have the right to demand it.

## CHAPTER LX.

*Penal provisions.*

ART. 71. Usurpers of intellectual property shall be held responsible civilly and criminally, as provided by section 3 of article 496 of the Penal Code.

ART. 72. The responsibility for usurpations committed through publication shall belong primarily to the author of the fraud, and secondly to the editor and printer, unless they prove to be not guilty.

ART. 73. The responsibility for usurpations committed through execution or exhibition shall belong primarily to the person or firm in whose name the execution or exhibition appears to be made, and secondly to the executor or exhibitor.

ART. 74. In cases of infringement of patents, the responsibility for the infringement shall belong primarily to the person for whose account the infringement is made, and secondly to those who actually commit the infringement, unless they prove to be guiltless.

FINAL ARTICLE. Foreigners residing outside the limits of Costa Rica shall enjoy in Costa Rica the same rights guaranteed by the present law to Costa Rican citizens and to foreigners residing in Costa Rica, provided that the laws of their respective nations grant the same privilege to Costa Rican citizens.

## LAW RELATING TO TRADE MARKS.

[Approved May 22, 1896.]

ARTICLE 1. Trade marks are defined to be the names of manufacturers and business firms, seals, stamps, engravings, vignettes, monograms, mottoes, legends, or any other distinctive signs whatsoever, serving to identify the products of a manufactory or the articles constituting the trade of a commercial house.

ART. 2. The use of trade marks is optional; but in certain cases the police authorities may make it compulsory.

ART. 3. The ownership of a trade mark is acquired by the registration thereof at the proper office and the filing of two samples.

ART. 4. The Executive shall promulgate the necessary regu-

lations for the registration and filing of trade marks, and shall designate the office where such operations must be performed.

ART. 5. The ownership of a trade mark is acquired only for a term of fifteen years, but may be renewed indefinitely every ten years.

ART. 6. To renew the term of a trade mark it will be sufficient for the owner to make a declaration to that effect before the proper bureau within thirty days after the expiration of the concession. The concession shall be forfeited if no declaration is made within the period above stated.

ART. 7. The ownership acquired by the registration and filing of a trade mark only confers the right of using it, but in no case does it imply any exclusive privilege to manufacture or sell the product or article to which it refers.

ART. 8. The responsibility for infringement of trade marks shall be placed, until their innocence is established, upon the person or persons on whose account the fraud has been committed, the authors of the forgery, and the importers or dealers of the counterfeited article or product.

ART. 9. Infringement of trade marks shall be published in conformity with article 496, paragraph 3, of the Penal Code.

ART. 10. Trade marks shall not be granted for the manufacture or sale of prohibited articles or products.

ART. 11. The use of immoral marks, drawings, engravings or vignettes is forbidden.

ART. 12. The coat of arms and the national flag of the Republic shall not be allowed to be used as trade marks.

#### CONVENTION BETWEEN COSTA RICA AND GREAT BRITAIN OF MARCH 5, 1898, FOR THE RECIPROCAL PROTECTION OF TRADE MARKS.

Her Majesty the Queen of Great Britain and Ireland, Empress of India, etc., and His Excellency Don Rafael Iglesias, President of the Republic of Costa Rica, being desirous to conclude a convention for the mutual protection of trade marks and designs, have for the purpose appointed as their plenipotentiaries, namely: Her Majesty the Queen, etc., George Francis Birt Jenner, esq., her minister resident in Central America, and His Excellency the President of Costa Rica, Don Ricardo Villa-

franca y Bonilla, Consul-General of the Republic of Costa Rica in Guatemala, who, after having mutually communicated their full powers, and found them in good and due form, have agreed to the following articles:

ARTICLE 1. The subjects or citizens of each of the contracting parties shall enjoy, in the dominions and possessions of the other, the same rights as are now granted, or may hereafter be granted, to British subjects or Costa Rican citizens, in all that relates to trade marks, industrial designs, and patterns. In order that such rights may be protected the formalities required by the laws of the respective countries must be fulfilled.

ART. 2. The stipulations of the present convention shall be applicable to all the colonies and foreign possessions of Her Britannic Majesty excepting to the following: India, the Dominion of Canada, Newfoundland, the Cape of Good Hope, Natal, New South Wales, Victoria, Queensland, Tasmania, South Australia, Western Australia, and New Zealand: Provided always that the stipulations of the present convention shall be made applicable to any of the above-named colonies or foreign possessions, whenever a notice to that effect is given by Her Britannic Majesty's representative to the Minister of Foreign Relations of the Republic of Costa Rica within one year to be counted from the date of the ratifications of the present convention.

ART. 3. The present convention shall be ratified and the ratifications exchanged at London as soon as possible. It shall be put in operation one month after the exchange of the ratifications, and shall continue to be in force for one year after the date of the notice given by one of the parties to terminate the agreement.

In testimony whereof the undersigned plenipotentiaries have hereto affixed their seals and signatures, at the city of Guatemala, this 5th day of March, 1898.

[L. S.]

[L. S.]

G. JENNER.

RIC. VILLAFRANCA.

CONVENTION BETWEEN COSTA RICA AND BELGIUM  
FOR THE RECIPROCAL PROTECTION OF TRADE  
MARKS.

[*April 25, 1902.*]

The President of the Republic of Costa Rica and His Majesty the King of the Belgians, desiring to secure for their respective citizens and subjects the reciprocal protection of their trade marks by means of a convention, have appointed as their plenipotentiaries:

The President of the Republic of Costa Rica, Senor Don Manuel M. de Peralta, Envoy Extraordinary and Minister Plenipotentiary of the Republic of Costa Rica in Belgium, Knight of the Order of Leopold.

His Majesty the King of the Belgians, His Excellency Baron Favereau, Knight of the Order of Leopold, Senator, Secretary of Foreign Affairs.

Who, after having communicated to each other their respective full powers and found them to be in due form, have agreed to the following articles:

ARTICLE 1. Costa Ricans shall enjoy in Belgium and Belgians shall enjoy in Costa Rica the same protection as Belgians, or Costa Ricans in everything concerning trade marks.

ART. 2. To insure in favor of the trade marks the protection stipulated in the foregoing article, Costa Ricans in Belgium and Belgians in Costa Rica, shall comply with the formalities required by the laws and regulations of the contracting States.

It is to be understood that the trade marks to which the present arrangement refers are those which legitimately belong, in either country, to the business men or manufacturers who use them—that is to say, that the character of a Belgian mark shall be considered from the standpoint of the Belgian law and the character of a Costa Rican mark shall be considered from the standpoint of the Costa Rican law.

ART. 3. When a trade mark has become public property in the country of origin it cannot be made the subject of a privilege in the other country.

ART. 4. The present arrangement shall be valid for five

years, to be counted from the date of the exchange of the ratifications. Nevertheless, if one year before the expiration of this period neither of the contracting parties gives notice to the other, officially, of its intention that this agreement should be terminated, the said agreement shall continue in existence for a year longer; and so on, from year to year, until the official notice is given.

ART. 5. The present arrangement shall be ratified and the ratification shall be exchanged in Brussels within six months after the present date.

In testimony whereof the plenipotentiaries have affixed thereto their signatures and seals.

Done at Brussels, on the 25th of April, 1902.

[L. s.]

MANUEL M. PERALTA.

[L. s.]

FAVEREAU.

## CUBA.

### PATENT AND TRADE MARK LAWS.

The legislation on patents in the island of Cuba is to be found in the Royal Ordinance of June 30, 1833, and in subsequent provisions of the Spanish Government while Cuba was a Spanish possession, of the American military government while the island was militarily occupied by the United States, and of the Government of the Republic ever since the 20th of May, 1902.

The legislation on trade marks in the same island is to be found in the Royal Decree of August 21, 1884, and in the amendments thereto made under the Spanish, the American, or the Cuban administrations.

As long as Cuba was a Spanish possession she was bound by the arrangements made by Spain, with Belgium, Brazil, France, Guatemala, Italy, the Netherlands, Portugal, Salvador, Servia, Switzerland, the United States of America, and Great Britain in regard to patents and trade marks. The new political situation created for Cuba by the war of 1898 between the United States and Spain, and by the treaty of peace signed at Paris on the 10th of December of the same year, may have radically changed, *de jure*, at least, the contractual relations which under the said arrangements were then in existence between Cuba and the nations above named.

The Department of State of the United States published on October 25, 1902, a report sent to it by the United States Minister in Cuba on the subject of patents, trade marks, and copyrights, which came accompanied with a brief by Mr. Fernando M. Vidal (formerly General Wood's legal adviser), which reads as follows:

#### “TRADE MARKS.

“Circular No. 12 of the Division of Customs and Insular Affairs, dated April 11, 1899, which is applicable to both patents and trade marks, provides protection for American patents and trade marks upon filing a duly certified copy of the

patent or of the certificate of registration of the trade mark, print, or label in the office of the Governor-General of the island. Provision is also made for the protection of rights of property in patents and trade marks secured under the Spanish laws.

“Circular No. 21 of the Division of Customs and Insular Affairs, dated June 1, 1899, provides that the fee for filing the certified copies mentioned in circular No. 12 shall be \$1, and that as to patents, the only certification required is that issued by the United States Commissioner of Patents.

“On September 25, 1899, circular No. 34 was issued by the Division of Customs and Insular Affairs, applicable to both patents and trade marks, rescinding so much of circular No. 21 as required the payment of a fee for filing certified copies of patents or certificates of registration of trade marks, prints, or labels.

“A paragraph is added to circular No. 21 requiring a power of attorney from the owner of the patent or trade mark authorizing another for him, and in his place, to file a certified copy of the patent or certification of the trade mark, print, or label, to be filed with such certified copy or certificate of registration. It is further provided that assignments of patents, trade marks, prints, or labels, or certified copies thereof, shall be filed in the same manner.

“By a subsequent circular, No. 38, of the Division of Customs and Insular Affairs, dated March 9, 1900, so much of circular No. 34 of the said Division as related to fees was rescinded, thereby restoring the registration fee of \$1 provided for by circular No. 21 in relation to American patents and trade marks.

“Upon this question of registration fees for American patents and trade marks, the Secretary of Agriculture, Commerce, and Industries, under date of June 21, 1902, issued a circular order which was published in the *Gaceta de la Habana* on June 23, 1902, wherein it is recited that—

“The military government of the United States in this island having ceased, by virtue whereof and in accordance with the express text thereof circulars Nos. 12 and 21, dated, respectively, April 11 and June 1, 1899, issued by the Division of Customs and Insular Affairs of the War Department at

Washington, concerning the registration of American trade marks and patents, have become without value or effect, in as much as said circulars were issued for the territories subject to military forces of the United States, I have resolved that patents and marks of all kinds, prints, labels, and tickets, duly registered in the Patent Office of the United States, whose filing in this island may be requested for their protection in future, shall from the present date be recorded in the Bureau under my charge in proper case, upon complying with the procedure followed for registration from other countries and the payment of \$35 currency for patents and \$12.50 currency for marks, prints, etc.—that is to say, the same fees which are paid by all others, foreign or national, in place of \$1 currency which is provided for in said circular No. 21 regarding the American.'

"In an unpublished communication, dated August 12, 1902, addressed to the Secretary of State and Government by the Secretary of Agriculture, Commerce, and Industries, a ruling is contained to the effect that 'civil order No. 160, series 1901, June 13, 1901, has not been revoked, and that American trade marks which have been registered in pursuance of circular 12 and 21 of the Division of Customs and Insular Affairs, are fully protected without the necessity of any further formality, and that the circular published in the Gazette on June 23, 1902, has had for its object the equalization of procedure followed in this island for the filing and protection of foreign trade marks and patents in accordance with the international treaty of 1883, and that, upon the expiration of the term of protection granted to marks, etc., registered under circulars 12 and 21, above mentioned, the Department reserves the right to take the proper steps. This will be the subject of a law.'

"At this point it seems proper to invite attention to civil order No. 148, series 1902, whereby 'each and every of the laws, decrees, regulations, orders and other rulings made and promulgated by and under the military government of Cuba, shall be deemed to be general and continuing in character, and to be applicable to and binding upon all officers of the Government of Cuba, under whatsoever names or titles, who shall succeed the officers of the military government, and to continue in force and effect, under whatsoever government may

exist in Cuba, until such time as it may be legally revoked or amended, pursuant to the terms of the constitution aforesaid.'

"Article 12 of said royal decree of August 21, 1884, has been amended by civil order 512, series 1900, dated December 19, 1900, by adding to paragraph 1 of said article the following:

"'Those who buy or sell receptacles, stamped in a permanent manner with a trade mark which is registered in the name of another person, except to such person or his authorized agent, or who use such receptacles, placing therein for sale the same or similar products as those for which said receptacles are used by the owner of the trade mark. In such cases the receptacles shall be seized, which the infringer shall forfeit to the owner of the trade mark.'

"The said article of said order amends article 287 of the penal code by extending the penalty therein provided to this offense.

"Article 36 of said royal decree of August 21, 1884, is amended by civil order 511, series 1900, by substituting for paragraph 2 thereof the following:

"'Manufacturers, merchants, agriculturists, and industrials applying for registration of the same mark, having distinguishing minor details, with the object of pointing out the various classes and grades of one product, or for any other motive, shall be furnished with a certificate of registration for each variation of the mark, stating their special use and charging them the corresponding fees (\$12.50 United States currency) for each certificate issued.'

#### "PATENTS.

"The law of patents of Cuba is contained in the royal decree of June 30, 1833, which was modified by the royal order of January 17, 1873, which prohibited the concession of 'patents of introduction.'

"The circulars of the Division of Customs and Insular Affairs, hereinbefore cited in reference to trade marks registered in the United States and seeking protection in Cuba, have application also to American patents under like circumstances; and the circular above mentioned—of the Secretary of Agriculture, etc., dated June 21, 1902—is likewise applicable to patents.

"The plans and specifications are required to be presented in closed and sealed envelopes, which are to be opened only by the examining board when about to pass upon the same.

"When a case arises which is not specially provided for in the law, it is the practice to follow as precedent and legal doctrine in the matter the provisions of the Spanish law of patents of July 30, 1878.

"COPYRIGHTS.

"The law of copyrights in force in Cuba is that of January 10, 1879, extended to this island by royal order of January 14, 1879.

"This has been modified by civil order 119, series 1900, whereby it is provided as follows:

"I. Authors of foreign scientific, artistic, and literary works, or their agents or representatives, shall enjoy in the island of Cuba the protection granted by the law of intellectual property of January 10, 1879, for the period during which said works are protected in the country where they originate, provided this period does not exceed the time allowed in the aforementioned law, and provided said authors comply with the requirements of the same and its regulations.

"II. This provides that the general register referred to in paragraph 33 of said law shall be kept in the Department of State and Government.

"III. Foreign works must be entered in the general register. To effect said registration, a duly legalized certificate must be presented from the proper authority of the country where the work originates, as a guarantee of proprietorship in favor of the person soliciting the registration.

"IV. Civil governors and municipal mayors shall not suspend in any case the representation, reading, or performance of literary or musical works, in accordance with the provisions or paragraph 63 of the regulations of the law of intellectual property, except in cases where the claimant proves himself to be the proprietor of the work or his agent or representative, by producing the certificate of registration issued by the general registry and the power of attorney whenever this be necessary.

"V. No fees shall be collected for the registration of

foreign works, and certificates of registration will be issued to the proprietors of such works, or their agents or representatives, free of charge.'

"Civil order 55, series 1901, provides that duly legalized notarial certificates of proprietary rights containing the titles to the same in full shall be considered sufficient for their inscription in the registry of foreign copyrights, provided that the public officer in whose presence the document is executed certifies to having had presented to him the original of the certificate of copyrights.

"Civil order 160, series 1901, hereinbefore mentioned, provides for the protection of copyrights upon the filing of a certificate of registration issued by the Librarian of Congress, with the Governor of the island, and contained a penal clause punishing the infringement of copyrights.

"Civil order 54, series 1902, provides that the general register of literary property provided for in article 33, of the law of January 10, 1879, and in article 2, of civil order 119, series 1900, shall be kept in the section of general government of the Department of State and Government in the same manner as the register of foreign literary property.

"For the purposes of article 34 of the law, it is provided that the records relating thereto and the works deposited in the printing bureau of the Department of State and Government shall be transferred to the general register of literary works.

"The connection of the provincial registries with the general registry shall be the same as that existing prior to January 1, 1899, with the general registry of the Department of Development (Ministerio de Fomento) and the general directory of public instruction, and they will forward to said registry the semiannual statements of the inscriptions effected and their after history, in accordance with said paragraph 3 of the aforesaid article 34 of the law.

"The three copies of each scientific, literary, or dramatic work which, in accordance with royal order of January 14, 1879, the interested parties must submit at the time of requesting inscription, and which, prior to January 1, 1899, were forwarded to the Ministerio de Fomento, of Spain, shall in the future be sent through the Civil Governor to the general registry of

literary works, one of which copies shall go to the national library, one to the university, and a third shall remain in the archives of the registry.

“The copy or copies in the case of musical works which must be presented shall be filed in the general registry of literary works, unless otherwise directed in the future.

“Respectfully submitted.

“FERNANDO M. VIDAL.”

## PATENT LAWS.

### No. 1.

*Royal ordinance of June 30, 1833.*

The King: By royal decree of March 27, 1826, to be executed within the limits of this my kingdom and adjacent islands, I was pleased to take measures which I deemed to be conducive to encourage and protect my intelligent and industrious vassals who, to the advantage of science and art, should happen to invent new machines, instruments, apparatuses, or methods, scientifical or mechanical, as well as those who should propose to introduce them from foreign countries or materially improve those which were already in use. For that purpose, as it was necessary and just, I promulgated some rules tending to secure for them the ownership and enjoyment of their inventions, granting them exclusive privilege to that effect for a certain time, so as to reconcile the protection due to private interests and to the benefit of the industry, protecting them against all usurpation and avoiding the dangers of a stagnation and monopoly in the matter of inventions.

Subsequent to that time several letters of privilege published in the Gaceta have been granted for this my Kingdom, and two more upon the advice of the Council of the Indies for the introduction and use in the Philippine Islands of a foreign machine destined to smelt and refine iron and for weaving fabrics, whereupon I recommended to the same council to study the manner of putting the said decree into operation in all my dominions of America and Asia, with such changes and amendments as circumstances may require. And acting in accordance with the reports of the said council of April 20, 1829, and

December 20, 1832, and after hearing the reports of the intendents-general of Cuba, the Philippine Islands, and Porto Rico, the Controller of the Treasury of the Indies, and my Attorney-General, I have decided to promulgate the following articles:

1. Every person of whatever condition or country who proposes to establish or establishes a machine, apparatus, instrument, process, or operation, mechanical or chemical, which, either wholly or in part, are new or have not been established in the same manner or form in either Cuba, Porto Rico, or the Philippine Islands, shall have the exclusive right of ownership and use of the whole or of the part which is not in operation there, subject to the rules and conditions to be hereafter set forth and to the laws, royal orders, regulations, and ordinances to police. But as it is already declared by me in regard to Cuba, by royal order of December 27, 1827, communicated to the intendent-general of Habana, it is to be understood that the privilege of introduction refers only to the manner of carrying the same into effect and that the faculty of applying it to different objects is free to all others.

2. Taking into consideration the particular condition of the island of Cuba, where no inducement is necessary for the promotion of the agricultural industry, especially in the branch of the manufacture of sugar boxes, the owners of the estates, as well as the authorities, follow very closely the progress made in the matter in foreign countries and introduce and put into operation at once the machines, instruments, apparatuses, processes, and scientific methods applicable to their business, the concession of the privilege shall be limited to inventors and importers. Mere importers shall be dealt with at the discretion of the captain-general and the intendent, who, acting in the capacity of the superior directive board, and after hearing the opinion of the city council, of the board of commerce or promotion of public welfare, mention of which shall be made in article 28, and the economical society, shall decide, if it is deemed advisable, what are the branches of industry or agriculture, as well as the districts, in reference to which no privilege is to be granted. This shall be done by special rules or additional articles, which shall be submitted to me for approval.

3. To secure for the interested party the exclusive ownership of the invention, a royal letter of privilege shall be granted to him, and this shall be done without entering into any examination of the novelty or usefulness of the invention, and with the understanding that the concession is not to be taken in any manner or form as an indorsement of its novelty and usefulness, the interested party remaining subject to the provisions of the present ordinance.

4. Privileges shall be granted for periods of five, ten, or fifteen years, as the applicants may desire, in cases of invention, and for five years alone in cases of importation from abroad, it being understood that the privilege granted for the establishment or introduction of the machines, apparatuses, instruments, processes, or operations, mechanical or chemical, is for doing something in these Kingdoms, but not to bring into them any object manufactured abroad which shall be subject to the provisions of the tariff in regard to importations.

5. The privilege granted for five years to the inventors may be extended five years longer upon just and good reasons. Privileges granted for periods of ten and fifteen years cannot be extended.

6. Anything which is not practiced and used, either in these dominions or in any foreign country, shall be a proper matter for a privilege of invention. What is not in use in the island into which the importation is proposed, but which is in use in other islands, in Spain, or in a foreign country, shall be a proper matter for a privilege of introduction, provided that no privilege shall be granted for anything the models or descriptions of which may be found in the city corporations, boards of commerce or promotion of public welfare, economical societies, and archives of the Government, unless three years have elapsed since its importation without its having been put into practice. In that case a privilege of introduction shall be granted for only five years.

7. Applicants for a letter of approval shall have to appear either personally or through an attorney, and by means of a memorial drawn in accordance with model No. 1, attached to this ordinance, to the intendent of the Province of their residence. Applications in the island of Cuba shall be filed before the intendent of Habana.

8. Applications shall refer to only one object, and shall be accompanied with a drawing or model and a proper description and explanation of the invention, specifying in the proper way which is the mechanism or process which it is claimed has never been practiced before. Everything must be stated clearly and precisely, in order to prevent doubts after the real nature of the claim on which the privilege has been granted.

9. The models shall have to be submitted, as well as the drawings, descriptions, and specifications, in a sealed box; but the drawings, descriptions, and specifications may also be enclosed in a sealed envelope. In either case a label, prepared according to model No. 3, shall be affixed to the package.

10. The intendent shall cause the word "presentado," as well as the seal of his office, to be stamped on the package, and shall give the applicants a certificate showing that the letter was received. If the application is made in any of the subaltern Provinces of Cuba, the letter of transmittal to the intendent of the capital shall be delivered to the applicants in order that they themselves, or some one in their name, should take it to the intendent of Habana.

11. The intendent shall refer all the papers to the superior directive board, which, in his presence and in the presence of the Attorney-General, shall cause the package to be opened. If the documents found therein have been drawn in accordance with article 8 of this ordinance, the privilege shall be granted without further examination, and a copy of the resolution passed to this effect shall be sent to the Captain-General, to whom the applicant shall then address a petition drawn in accordance with No. 2, requesting him to issue in his favor and in my name a letter of privilege according to model No. 4.

12. Before the letter is issued the applicant shall produce a receipt showing that the following fees have been paid by him to the board of commerce or promotion of public welfare, to-wit:

|  |       |
|--|-------|
| For a privilege of five years .....    | \$ 70 |
| For a privilege of ten years .....     | 210   |
| For a privilege of fifteen years ..... | 420   |
| For mere introduction .....            | 210   |

One-half of these fees shall go to the board of commerce or

promotion of public welfare, to be applied to the progress of the arts and industry, and the other half shall be sent to Spain to the conservatory at Madrid.

An additional fee of \$8 shall be paid for the issue of the patent.

13. After the patent is issued, the governor will send a copy thereof to the intendant, and it shall be the duty of the latter to transmit to the board of commerce or promotion of public welfare, the documents in the case, properly sealed, and to report to me through my Secretary of Fomento, sending at the same time the portion of the fee corresponding to the Royal Conservatory of Arts, in which institution a record shall be made of the patent granted, according to the provisions of article 15.

All the documents and papers relating to patents shall be kept in rooms properly arranged for this purpose in the office of the board of commerce or promotion of public welfare, and no package shall be opened except in case of litigation and by order of a court of competent jurisdiction.

14. The concessions or privileges shall be published in the respective *Diario del Gobierno* and in the *Gaceta de Madrid*.

15. A book shall be kept in the boards of commerce or promotion of public welfare, in which all the patents of privilege shall be recorded chronologically, with exception of the dates, names, and residence of the patentees, the object of the privilege, and the time of its duration. This register shall be open to public inspection.

16. Should the interested party come to this Kingdom and request a patent, either personally or through an attorney, he shall have to comply with the provisions of articles 6, 7, 8, 9, 10, 11, 12, 13 and 14, of the royal decree of March 27, 1826, it being understood that the matter is to be transacted in the Department of Fomento and the council of the Indies, and that the time granted by article 4 shall be extended or shortened at the discretion of the authorities according to the distances and the object of the patent.

17. The patentee shall enjoy the exclusive use of the invention, machinery, etc., for which the patent was granted, and no one shall have the right to use or put it into practice, either the entire object or any part thereof which he has declared to

be new or not used in the district where it is to be introduced, without his consent. The identity of the invention is to be determined by the model, drawings, and description filed with the application, which shall serve at all times as evidence.

18. The period of ownership of the invention shall be counted from the day and hour of the filing of the application and documents before the intendant; and if two or more persons have made application for patents for the same object, the patent shall be granted to the person who first made application. In case application is made by two or more persons, some of whom are in these Kingdoms and others in Cuba, Porto Rico, and the Philippine Islands, the patent shall be granted to all if no more than one month appears to have intervened between the dates of the applications in those islands and here. This period shall be extended to four months for those of the Philippine Islands. If the difference between the dates of application is greater, the patent shall be given to the first applicant.

19. Patentees shall have the right to assign, transfer by gift, donation, purchase, or any other contract, and also by last will and testament, the privileges granted to them as any other kind of property.

20. Assignments and transfers shall have to be made by public deed, which shall set forth whether the privilege has been transferred for the purpose of being put into practice in the whole district or in only one of the provinces or localities of the same; also whether the transfer is absolute and in full; whether the patentee shall or shall not use it himself, and whether the assignee shall or shall not have the right to transfer the patent to some one else in his turn.

21. Assignees shall be bound to file a certified copy of the deed of assignment with the intendant before whom the application for the patent was originally filed; and he, after having caused the said deed to be recorded, shall forward it to the capital of the island and to the board of commerce or promotion of public welfare. The intendant shall also give notice of the transfer to my Secretary of Fomento, who will transmit the information thus given to him to the Royal Conservatory of Arts, where proper record shall be made of the said transfer in the manner and form specified in article 13. The trans-

fer of the patent shall be null and void if the certified copy of the deed of transfer is not filed as above provided within sixty days after the date of execution.

22. The duration of the privileges shall be counted from the date of the patent.

23. Patents shall be terminated and become valueless in the following cases:

(1) At the expiration of the period for which they were granted.

(2) When the interested parties do not apply for the royal letters of patents within three months, to be counted from the dates of the applications.

(3) When the patentee himself, or some one else in his name, has failed to put the patent into practice within the time fixed for that purpose.

(4) When the patentee abandons the patent, total suspension of the exercise of the patent for an uninterrupted period of one year and one day will be considered as abandonment.

(5) When evidence is produced that the object protected by a patent of introduction is in practice in some other district or is described in printed books, plates, models, drawings, etc., preserved in the city councils, boards of commerce, economical societies, Government archives, etc., without having passed the three years mentioned in article 6, and, finally, when it is found out that machinery or process protected by the patent and represented as new and a matter of invention of the applicant is established and in practice in some other part of the dominions of His Majesty or in foreign countries.

24. At the expiration of the term of the patent the president of the board of commerce or promotion of public welfare shall give notice to the intendant of the capital of the island, who shall report the fact to the superior directive board, where a resolution shall be passed directing that the patent be canceled. Information of these proceedings shall be transmitted by the said board to the Department of Fomento and through it to the Director of the Royal Conservatory.

25. In all other cases of termination of a patent the declaration shall be made by the court of competent jurisdiction at the request of some interested party. The said court, upon

consideration of the evidence produced before it, shall decide whether the patent has or has not been terminated.

26. The courts of competent jurisdiction in these matters shall be the courts of the intendants in the respective Provinces. The petitions shall be filed before the intendant of the Province where the patentee is domiciled. The appeals against the decisions of the intendants shall be taken to the superior board for matters of contention and from this board to the council.

27. As soon as a patent shall be terminated or is terminated for any of the reasons stated in article 23, the intendant shall give notice of the fact to the board of commerce or promotion of public welfare, which shall proceed to open the package containing the documents that were presented at the time when the application was filed. Everything shall then be made public, for which purpose the proper notice shall be printed in the *Diario del Gobierno*.

28. As at the present time, and by virtue of the provisions of the Code of Commerce and other royal decisions, the board of commerce is now established in Habana, the said board shall continue to take care of the promotion of all the branches of public welfare in the island as was done before by the board which was called "board of government." In Porto Rico the board of commerce and promotion of public welfare is to be established and organized according to the ordinance of February 17, 1832; and in the Philippine Islands the corporation which is to be established either under the provisions of the Code of Commerce and the ordinance of July 26, 1832, shall be competent to deal with all matters regarding the promotion of agriculture and industry in the archipelago.

29. The patentee or his assignee shall have the right to prosecute judicially all of their property. The competent authorities to try these cases of infringement shall be the intendants of the Provinces where the defendants reside, and the appeals shall have to be taken to the superior board for matters of contention and from the latter to the council.

30. Inventors who have obtained a privilege in these dominions or in Cuba, Porto Rico, or the Philippine Islands, shall have the right to use the same or put it into practice in any place whatever within my dominions, and shall have the right to sell or transfer it as provided in article 17, provided that

they obtain from the council, within one year from the date of the patent, a permit to do so. After the expiration of the said year no one shall have the right to apply for a patent of introduction and put it into operation.

31. Upon sufficient proof of the infringement the guilty parties shall be condemned to the loss of all the machines, apparatuses, utensils, etc., which have been used, and to the payment of a fine of three times over and above the value of the patent, said value to be determined by experts. The amount to be paid by the infringer shall be given to the patentee.

32. Patents granted before the present date shall continue to be in force without change. Those which have been granted subsequent to the provisions of a subsequent law shall be governed by those of the present ordinance.

Therefore I do hereby command, etc.

Done at the Palace this 30th day of July, 1833.

I, THE KING.

By command of the King, our Lord:

MATEO DE AGUERO.

FORM No. 1.

To the INTENDANT OF THE PROVINCE OF ——:

I, N. ——, a resident of ——, doing business as ——, respectfully represent: That in order to secure proprietary rights on a machine (or instrument, or apparatus, etc.) which I have invented (or imported from abroad), to be used for (such and such purposes), and doing as commanded by His Majesty, I come before you and submit, together with this application, a sealed package, upon which the following inscription has been affixed (copy the inscription here); and therefore I pray you to be pleased to cause the word "Presentado" to be stamped upon the package, provide me with a receipt thereof, and refer the whole matter to the superior directive board (either directly or through me) for such action as may be proper under the law.

Here the date and the signature of the applicant or of his attorney.

## FORM No. 2.

MOST EXCELLENT SIR: I, N. ——, a resident of ——, doing business as ——, respectfully represent: That in order to secure proprietary rights on a machine (apparatus, etc.) which he invented (or introduced from abroad), to be used for (such and such purposes), he now comes and appears, and in compliance with the law enacted on the subject by His Majesty, prays your excellency to be pleased to cause a patent to be issued in His Majesty's name and in favor of your petitioner, granting him the corresponding privilege for the period of —— years.

Date, signature, etc.

## FORM No. 3.

Application for royal letters patent of privilege filed by N. ——, a resident of ——, requesting the intendant of —— to do this and that (here a copy of the prayers of the application).

Date, signature, etc.

Here, at the foot of the above, the intendant shall write "Presentado" and affix his signature.

## FORM No. 4.

I, Don N. —— (here the name and titles of the governor). Whereas, Don N. —— (here the name, residence, etc., of the applicant) has stated to me, in his memorial of such a date, that in order to secure proprietary rights on machine (instrument, process, etc.) which he has invented (or has imported from abroad), to be used for such and such purposes (here the purposes as stated in the memorial), he desires that, as commanded by His Majesty, the proper letters patent of privilege be issued in his favor;

Therefore, in use of the powers which are vested in me, and in the name of the King, our Lord (whom God may keep), I do hereby grant to the said Don N. ——, by means of this patent, the exclusive privilege to use, manufacture, or sell the said invention (instrument, etc.) for a period of time to be counted from the date of this patent to the —— of ——,

A. D. ——, on which it shall terminate. And the said Don N. —— shall have the right to assign, or sell, or transfer, or convey by contract or last will the exclusive privilege which is hereby granted him. And in compliance with the commands of His Majesty, all persons are forbidden, under the penalties established by law, to interfere with said privilege. This patent shall have to be recorded at the office of the Secretary of the Intendant and at the office of the board of commerce and promotion of public welfare, when the required fees shall have to be paid, the patent to be null and of no effect if said fees are not paid.

Date, signature, seal, etc.

No. 2.

By royal order of January 17, 1873, the issue of patents of "introduction" was forbidden.

No. 3.

*Civil order No. 196.*

HEADQUARTERS DEPARTMENT OF CUBA,  
*Habana, October 19, 1899.*

The Military Governor of Cuba directs the publication of the following order:

I. The rules pertaining to the issuance of letters patent in the island of Cuba, as promulgated by royal decree of June 30, 1833, are modified so as to substitute one sole term of seventeen years instead of the three terms contemplated by said decree.

II. The Government fees as provided in said decree are abolished, and one uniform fee of \$35 is substituted therefor.

ADNA R. CHAFFEE,  
*Brigadier-General, Chief of Staff.*

No. 4.

*Announcement by the Secretary of Agriculture, Industry, Commerce, and Public Works.*

The Military Governor of the island, at the suggestion of this Department, has been pleased to order, on the 7th instant, that the benefits of order No. 196 be extended to all those who

from the 1st of January of the present year until this date have succeeded in obtaining the concession of patents, but have failed to get the patent certificate within the time fixed by the royal ordinance of June 30, 1833.

This is published in the Gaceta de la Habana for general information.

Habana, November 12, 1899.

ADOLFO SAENZ YANER,  
*Secretary.*

No. 5.

*Announcement by the Secretary of Agriculture, Industry, Commerce, and Public Works.*

The honorable Secretary of this Department has been pleased to order that proper notice be given to all persons who are in possession of patents issued by the Spanish Government and admitted to be valid up to December 31, 1898, that in order to give them the protection to which they are entitled under article 13 of the treaty of peace between the United States and Spain, they must file in this Department, with the least possible delay, the duplicates of the petitions, drawings, specifications, and models which should be in their possession, thus enabling the Department to compare their patents with others from the United States of identical titles and subjects, the inscription of which in this island has been requested, and decide as may be proper and just.

This is published for general information.

Habana, November 16, 1897.

B. PICHARDO,  
*Assistant Secretary.*

No. 6.

*Civil order No. 216, series of 1900.*

HEADQUARTERS DEPARTMENT OF CUBA,  
*Habana, May 26, 1900.*

The Military Governor of Cuba, upon the recommendation of the Secretary of Agriculture, Commerce, and Industries, directs the publication of the following order:

I. Notice is hereby given to all persons in legal possession of letters patent registered in Madrid, Spain, and extended to the island of Cuba, to exhibit the duplicates of models, plans, and specifications of their patents, or an authenticated copy of the same, together with a certificate that they are in force in Spain, in accordance with section 5 of the royal decree of August 14, 1880, within six months from the date of this order, in order to protect them from pending infringements.

II. American patents already forwarded for registration and those that may hereafter be forwarded, will at once be entered in the special register in the office of the Secretary of Agriculture, Commerce, and Industries conditionally, reserving the decision in regard to the definite inscription or absolute rejection of such as are determined to be infringements in accordance with the proofs obtained, within the period of six months, as provided in Paragraph I of this order, upon the expiration of which period the inscription will be made in full, leaving to the parties concerned after that date, the right of settling their differences before courts of justice.

J. B. HICKEY,  
*Assistant Adjutant-General.*

No. 7.

*Civil order No. 497, series of 1900.*

HEADQUARTERS DEPARTMENT OF CUBA,

*Habana, December 10, 1900.*

The Military Governor of Cuba, upon the recommendation of the Secretary of Agriculture, Commerce, and Industries, directs the publication of the following order:

I. The requirements of order No. 216, series of 1900, from these headquarters, referring to American letters patent, are hereby extended to Cuban letters patent as well as to those granted by other nations; in consequence, letters patent forwarded for registration which may appear as infringing on Spanish patents, shall be entered in full in the register of the Department of Agriculture, Commerce, and Industries if, within the period of six months granted by said order No. 216, the owners thereof have not exhibited the duplicates of models,

plans, and specifications of same for the necessary examination and decision in case of said infringement.

II. The inscriptions in full of Cuban and foreign letters patent shall be made in every case as directed for American patents, leaving the right to the owners of Spanish patents to settle their differences before the courts of justice.

J. B. HICKEY,  
*Assistant Adjutant-General.*

## TRADE MARK LAW.

### I.

*Royal decree of August 21, 1884.*

#### PREAMBLE.

SIRE: Owing to the confusion and vagueness which for some time has been noticed in the important question of trade marks in the provinces beyond the seas, the necessity for revision of the law on that subject is keenly felt. Public opinion is strongly in favor of having the tobacco manufacturing industry in Cuba and Porto Rico efficiently protected. It is urgent that an end should be put to the insecurity resulting from the present state of affairs in the tobacco industry, in order that this industry, constituting wealth of such importance on account of the special conditions of the island of Cuba, be properly attended to and developed. All of this was known, sire, to one of my predecessors, who, after duly considering the suggestion made by certain manufacturers and the opinions of the proper advisory boards of the island, framed a bill which was introduced in the Cortes in the session of 1882-83. Unfortunately the bill, although recommended by the respective committee and discussed and passed in the Chamber of Deputies, failed to secure consideration by the Senate owing to the fact of its adjournment. It might perhaps have been better to introduce again the same bill and proclaim it when passed; but the conditions now existing in Cuba are such that no delay can be countenanced if the great interests connected with the tobacco industry are to be saved from the ruin which also threatens industries of no less importance in the island. Fortunately

for the undersigned minister, the law authorized him to recommend a measure which shall put an end to those evils. The law of July 25th of the present year granted him, among other things, the power to adopt measures tending to protect in an efficient manner the tobacco industry in the two Antilles, and the minister who has now the honor to address Your Majesty considers that the greatest protection which may be given in this matter consists in securing for those who employ their capital and labor in the very important industry of the manufacture of tobacco the perfect and unquestionable ownership of their products and trade marks.

Founded upon this business, and duly complying at the same time with the provisions of article 11 of the law above mentioned of July 25th ultimo, the colonial minister has the high honor of submitting to the approval of Your Majesty the following draft of a decree.

Sire:

To the royal feet of Your Majesty.

MANUEL AGUIRRE DE TEJADA.

ROYAL DECREE.

Taking into consideration the reasons set forth by the colonial minister and the opinion of the council of ministers, I have seen fit to decree the following:

TITLE I.

*General provisions.*

ARTICLE 1. The following shall be considered trade marks and marks of commerce and agriculture:

The names of the manufacturers, merchants, agriculturists, or companies formed by the same, the names of business houses, emblems, coats of arms, engravings, vignettes, marks, stamps, seals, stamps in relief, letters, numbers, envelopes, coverings, wrappings, or any sign of whatever class and form used by the merchant, agriculturist, or company to distinguish their products or merchandise and secure them in order that the public may know and distinguish them from others of the same nature.

ART. 2. The drawings or designs destined to be stamped on fabrics or on paper patterns to be used for decoration, models for jewelry, cabinetmaking, sculpture, and in general all industrial drawings or models shall be comprised in this class and enjoy the benefits of this decree.

ART. 3. Signs or other material or external designations by means of which a merchant distinguishes his own establishment from others of the same kind are not objects of this decree.

ART. 4. All manufacturers, merchants, agriculturists, or business men of any other class who individually or collectively may wish to use the same mark to distinguish the products of their respective factories, articles of their commerce, agricultural raw material of their own production, etc., from all others of the same nature, and those who should wish to retain the ownership of industrial drawings and models shall have to ask for a certificate of ownership under the provisions of the present decree.

Those who should fail to provide themselves with the said certificate, shall have no right to use any mark to distinguish the products of their industry or prevent other parties from using their stamps, industrial drawings, or models.

ART. 5. Manufacturers, merchants, agriculturists, or business men of any kind shall be free to adopt for the products of their factory, commerce, or agricultural industry, the trade marks which they may deem advisable, excepting the following:

1. The national coat of arms and the insignia and decorations of Spain, unless upon competent authority to that effect.
2. The coats of arms, insignia, mottoes, etc., of foreign States or nations without the express consent of the respective Governments.
3. The denominations generally used in trade to distinguish the class of merchandise.
4. Any drawing or representation offending public morals, and caricatures tending to ridicule ideas, persons, or objects worthy of consideration.
5. The marks already used by some one else under the authority of the proper certificate as long as the said certificate has not become void according to the provisions of the present decree.

6. The marks which on account of their resemblance to other marks already granted may lead to confusion or error.

7. Marks relating to any kind of religious worship, if it appears that the mark offends even unintentionally the said worship.

8. The portraits of living persons unless with their permission, and the portraits of dead persons if their relatives within the fourth civil degree do not make opposition.

ART. 6. The use of trade marks is only obligatory for articles of gold and silver, chemical and pharmaceutical products, and any other product or article to be determined by special rules.

## TITLE II.

### *Ownership of trade marks and industrial drawings and models.*

ART. 7. No one shall have the right to enforce the ownership of trade marks or industrial drawings or models if he is not provided with the proper certificate and shows that he has complied with the provisions of the present decree.

ART. 8. When two or more persons apply for the same mark the right to use it shall belong to the one who first filed the application according to the day and hour on which it appears that it was filed.

ART. 9. No one shall have the right to request or acquire more than one trade mark for the same industry or the same class of products.

ART. 10. Spanish manufacturers, merchants, agriculturists, or business men or companies composed of Spaniards shall be the only ones entitled to obtain a certificate of ownership of trade marks or industrial drawings or models.

Foreigners owning in the ultramarine provinces industrial establishments shall enjoy for their products the benefits of this decree if they comply with its provisions.

ART. 11. Foreigners residing outside of Spain shall have the right granted to them by the treaties concluded with their respective nations, and if there is no treaty, a strict reciprocity shall be observed.

## TITLE III.

*Legal effects of the certificates of ownership of trade marks and industrial drawings or models.*

ART. 12. Those who, in conformity with the provisions of this decree, should obtain a certificate of ownership of trade marks or industrial drawings or models shall have power—

1. To criminally prosecute before the courts, subject to the provisions of the penal code and of the present decree, those who should use their marks, industrial drawings, or models counterfeited or imitated in such a way as to cause them to be taken as genuine; those who should use marks containing indications capable of deceiving the purchaser about the nature of the product; those who, without competent authority, should use genuine trade marks or industrial drawings or models; and, lastly, those who, without counterfeiting the trade mark, detach it from some article and affix it to another.

2. To bring civil action before the courts of justice to recover damages against those who have counterfeited or imitated the trade mark, industrial drawing, or model.

3. To sue for damages the merchant who takes away from the article without the express consent of the owner the trade mark or distinctive sign affixed by him; but nothing shall prevent any person from adding to the trade mark another mark or sign of his own or of his establishment.

4. To oppose the granting of a certificate of ownership of trade mark, industrial drawings, or models when requested if it prove to be equal to his own or so similar to it as to cause the purchaser to be deceived.

ART. 13. The granting of a certificate of ownership of trade marks, drawings, or models shall be always understood without prejudice to the right of third parties.

ART. 14. Foreign articles with Spanish marks are forbidden, and they shall be confiscated upon their arrival at the custom-houses of Spain. This provision shall also apply to cases in which the marks are completely new, counterfeited, or simply imitated. The right of the owner of a trade mark to prosecute civilly and criminally the counterfeiter or imitator of his trade mark shall be always preserved.

ART. 15. The property protected by the certificates of trade marks, industrial drawings, or models shall be considered for the purposes of transfer or conveyance and for all other purposes of law exactly on the same footing as all personal property.

Criminal actions in this matter shall be barred by limitation in the manner and form established by the penal code.

ART. 16. For the better protection of the assignees of trade marks, industrial drawings and models, information shall be given to the governor-general of each island by the respective provincial governors of every transfer, whether by contract or by descent of the trade mark, drawing, or model. A certified copy of the deed of transfer or of the provision of the will by which it was conveyed, shall be filed within the period of three months, to be counted from the date of the transfer, and the deeds shall be recorded in the Royal Economical Society.

#### TITLE IV.

##### *Extinction of the right of ownership of trade marks.*

ART. 17. The certificates of ownership shall become extinct and terminated at the expiration of fifteen years, to be counted from the date of their concession; but they may be renewed by exactly the same process as was followed for their acquisition.

ART. 18. The certificate shall also become extinct:

1. By the dissolution or extinction of the corporation to which they belong.

2. By final decision of a court of competent jurisdiction, though in this case the extinction refers only to the party against which the decision was given.

3. Upon petition of the owner.

4. When the object of the trade mark has not been put into operation in the Spanish dominions within the time established by this decree.

5. When the owner has failed to exercise for one year and one day the industry or business to be protected by the trade mark, unless he proves that the suspension was due to superior force.

6. By the failure to comply with all the other requisites established by this decree.

ART. 19. Applications for a certificate of ownership shall be dismissed if the formalities required by this decree are not duly observed within the thirty days subsequent to the date on which they were filed, if the failure depends upon causes imputable to the applicant.

ART. 20. The declaration that a trade mark is extinguished under the provisions of article 18, Nos. 1, 3, 4, and 6, corresponds to the Colonial Secretary in case that the mark was granted for the colonial possessions; but notice to the director of the respective economical society is to be previously given. Against the decision of the Colonial Secretary a claim can be presented within twenty days before the section of the Council of State which is in charge of suits against the Government.

When the extinction of the trade mark is founded upon failure to work it for one year and one day, the declaration of the fact corresponds to the courts of justice, upon motion of a legitimate party.

Corporations which by virtue of this decree may be owners of trade marks, may apply at any time for the declaration of extinction upon proper proof being filed for this purpose. Questions arising in these cases in regard to the ownership or possession of the trade mark, shall be decided by the courts of justice, to which the executive authority shall send the record, giving notice thereof to the respective parties.

## TITLE V.

### *Formalities for issuing certificates.*

ART. 21. The ownership of trade marks recognized by this decree, shall be acquired by the certificate herein provided for and the compliance with all other provisions of the present decree.

ART. 22. In order that the manufacturers may enforce the responsibility incurred by the infringers of their privileges, secured by a trade mark, they shall previously request the governors of their respective provinces to issue in their favor the corresponding certificate. The application shall be accompanied by a statement showing the class of mark adopted, the

ciphers, letters, and signs of which the mark consists, the articles upon which it is to be stamped or affixed, and the name of the owner. A duplicate drawing exactly representing the mark shall also accompany the application. The same application shall have to be made when the desired certificate refers to the ownership of an industrial drawing or model.

ART. 23. When the manufacturers desire to observe secrecy as to the methods employed in the stamping of the mark or industrial drawing, they shall place a description of the method and process in a sealed envelope which shall not be opened unless in case of litigation.

ART. 24. The provincial governors shall keep a register, in which they shall enter:

1. The day and hour on which the application is filed.
2. The name of the interested party or his attorney.
3. The profession, domicile, or business of the party claiming the ownership, and the class of articles, merchandise, etc., to which the mark or industrial drawing or model is to be affixed.
4. A particular description of the trade mark, industrial drawing, or model to be covered by the certificate of ownership, this description to be accompanied by one of the drawings which the applicant has to file under the provisions of article 22, shall be affixed.

These entries shall be numbered in regular order and a duplicate copy shall be made of each one.

ART. 25. Each application shall be kept with all other papers and copies of papers relating to the same subject, in order to form a complete record of the case.

ART. 26. The provincial governors shall give to the applicants a certified copy of the entry made in the register under article 24, showing the date of the filing of the application; and within six days and under their responsibility they shall forward to the Governor-General the application and accompanying documents, one of the copies to which article 24 refers and the duplicate of the drawing which, according to article 22, the applicant must present.

ART. 27. Upon the advice of the Royal Economical Society, which in its turn shall ask the municipal council of the city of Habana for an opinion, in matters relating to tobacco, cigars,

cigarettes, and matches, upon the question whether the trade mark, industrial drawing or model has or has not been previously used or whether it belongs to a third party, the manufacturer shall be given a certificate showing that he has filed and registered his trade mark, industrial drawing, or model, the form and circumstances of the mark to be indicated with due precision and clearness.

ART. 28. The applicant shall pay for the issue of the patent, under penalty of extinction of the privilege, \$12.50 in the proper stamped paper, the stub of which shall be added to the record. The certificate shall be signed by the Governor-General and recorded in the register to be kept for that purpose in the Division of Industry and Commerce in the office of the general secretary.

ART. 29. The copy of the drawing which, according to article 26, the provincial governors have to forward to the Governor-General in order that the certificate may be issued to the interested parties, shall be kept in the archives of the Royal Economical Society. A list of all the titles of certificates shall be published every three months in the *Gaceta*, and a general list of the same shall be published at the end of the year. In case of litigation the original drawing or the certified copy thereof, to which article 26 refers, shall be accepted before the competent court.

ART. 30. As the registration of foreign marks is to be regulated by international conventions concluded to that effect with the respective Governments, all the applications filed for that purpose shall be referred for the proper decision to the Government of His Majesty.

ART. 31. There shall be a special register kept, with all the formalities established in article 24, for the registration of marks belonging to foreigners not residents of the Spanish dominions, and the entries made in that register shall set forth the name of the country where the industrial, commercial, or agricultural establishment of the owner of the mark, drawing, or model is situated, and also the diplomatic convention by which reciprocity in this matter has been established.

ART. 32. The manufacturers, business men, merchants, or agriculturalists who, residing in the Spanish Peninsula or in the islands adjacent thereto, should like to secure in the trans-

marine provinces the ownership of the marks which distinguish their trade marks, drawings, or models, shall, if their trade marks are authorized and recognized and if they themselves have been provided with the proper certificates of ownership issued in accordance with the laws regulating this matter, apply to the Colonial Secretary, stating their wishes and appending to their application an authentic copy of their title papers and duplicate drawings, representing the mark, drawing, or model belonging to them.

A copy of these papers shall be sent by the Colonial Secretary to the Governor-General of the island where the ownership of the mark, drawing, or industrial model is to be guaranteed in order that the rights of the interested parties shall be respected and protected according to the provisions of the present royal decree. They shall also have the right to apply directly or through their attorney to the governors-general of the provinces in which they desire the ownership of their marks, drawings, or models to be secured.

ART. 33. The governors-general of the colonial possessions shall enter in a special register, in strict chronological order, both the applications filed before him directly by interested parties residing in Spain, the adjacent islands, or other colonial possessions and those which may be forwarded to them by the Colonial Secretary. In all cases they will give to the interested parties, should they so desire, the proper certificate of receipt, and they shall publish the concession in the *Gaceta* of the capital, as provided by article 29.

ART. 34. The ownership of the marks, drawings, and industrial models granted by the Secretary of Fomento shall become extinct in the colonial possessions on the same date on which the Conservatory of Arts published the extinction thereof in the *Gaceta* of Madrid.

ART. 35. All persons domiciled in the colonial possessions who have obtained certificates of ownership for their marks, industrial drawings, or models in conformity with this decree, shall cause this right to be recognized in all the Spanish dominions. For that purpose they shall file a petition addressed to the Governor-General setting forth their desire in this respect, and the Governor-General shall refer the application with his report and a copy of the certificate granted, as well as the

drawings representing the mark, drawing, or industrial model, to the Colonial Secretary, who, according to the circumstances of the case, shall either refer the matter to the Secretary of Fomento or to the governors-general of the other possssions.

ART. 36. In issuing the certificates of ownership of trade marks the following shall be observed:

1. That merchants asking for certificates referring to one and the same identical mark, although applied to different objects, shall be furnished with a single certificate only, which shall set forth the different applications the trade mark may have.

2. That manufacturers who desire to use different marks (although somewhat similar) to be applied to the same article for the purpose of distinguishing their respective qualities or for any other reason shall be granted a certificate for each change or variation made in the mark expressing the special use of each one, and they shall be required to pay the fees established in article 28 as many times as certificates are issued.

3. That manufacturers requesting the use of trade marks for themselves or for their sons or partners, in case they have established themselves abroad, shall, if all the marks are actually in use, be given as many certificates as there are marks; but the said certificates shall contain the name of the person in whose favor the certificate is issued, so that in case his father or partner retires from the business the name of the owner may be known. The fees established by this decree shall be as set forth in the article immediately preceding for each one of the certificates of issue.

## TITLE VI.

*The publication of trade marks, industrial drawings, or models and descriptions, drawings, or facsimiles of the same.*

ART. 37. The secretary of the Governor-General shall cause, during the second half of the months of January, April, June, and October, a list of all the certificates of trade marks, industrial drawings, or models granted during the previous quarter to be published in the official Gaceta. This publication shall clearly express the object of the trade mark.

The provincial governors shall order, as soon as the said lists appear in the Gaceta, the same to be reprinted in the official bulletins or newspapers of the locality; and if there is none, they shall be made public by announcements or bills displayed in public places.

ART. 38. The descriptions and drawings of trade marks, industrial drawings, and models shall be exhibited and at the disposal of the public in the offices of the secretaries of the royal economical societies during the hours that the presidents of the same may designate.

#### TITLE VII.

##### *Penal provisions.*

ART. 39. The following shall be punished by Executive order with a fine from \$15 to \$45, without prejudice to the civil and criminal actions which may arise from their acts:

1. Those who should use a trade mark, industrial drawing, or model without having obtained the corresponding certificate of ownership.

2. Those who, although legitimate owners of a trade mark, should apply it to articles different from those for which it was granted.

3. Those who should detach from an article of merchandise the trade mark of the producer or owner without his express consent.

4. Those who should use a mark after the lapse of ninety days subsequent to the publication of the present decree without having complied with the provisions of the same in its transitory articles.

5. Those who should use a trade mark transferred to them without having proved and entered the transfer within a period of ninety days.

Failure to pay these fines shall subject the delinquent party to imprisonment at the rate of one day for each dollar of the fine.

ART. 40. The following shall be punished with a fine of from \$45 to \$135, and to imprisonment as established above in case of failure to pay the fine:

1. Those who should commit a second offense, this fact to be

established by proof that they were punished for the same offense during the five preceding years.

2. Those who should use a trade mark forbidden by law.

ART. 41. The provisions of article 228 of the Penal Code in force in Cuba and Porto Rico shall be applicable to those who should use counterfeited marks imitating in such way the genuine ones, that the consumer may be led into error or confusion.

ART. 42. Those who should change wholly or in part their own trade marks, industrial drawings, or models without requesting and obtaining due authority to do so, shall forfeit their ownership of a mark.

ART. 43. The action to denounce the violations of this decree shall be public.

#### TITLE VIII.

##### *Competent jurisdiction in matters of trade marks.*

ART. 44. The service relating to the ownership of trade marks shall be in charge of the civil governors of the transmarine provinces, under the dependency of the respective governors-general.

It shall be the duty of the civil governors:

1. To keep a register of trade marks, drawings, etc.
2. To take cognizance of all cases of application for a trade mark, and matters incident thereto, and submit them with their report to the governor-general.
3. To enforce the decisions of the superior authority.
4. To reprint in the Official Bulletins or in the newspapers of their respective localities, and if there is no bulletin or newspaper to give publicity by means of announcements or bills, to be posted where they may be seen by all, to the lists of certificates of ownership of trade marks granted by the Government during the preceding quarter, as soon as said list appears in the Gaceta.

It shall be the duty of governors-general:

1. To decide all cases of applications for trade marks and the matters incidental thereto, including those which under the Penal Code give rise to a criminal action.
2. To issue the certificates of ownership of the trade marks.

3. To inspect the service and registration of trade marks.
4. To decide when and in what cases the penalties established by articles 39 and 40 are to be imposed, and communicate their decisions to the governor of the province, in order that he may enforce them, and give the proof thereof by forwarding, within the next fifteen days, the stubs or portions of the stamped papers with which the fines were paid.
5. To see that the present decree be faithfully complied with.
6. To recommend to the Colonial Secretary the measures of general character which may be useful to take for the better execution of this decree.

It shall be the duty of the Colonial Secretary:

1. To decide, on appeal, all cases of trade marks taken to him.
2. To decide finally and without recourse all claims against the Governors-General arising out of fines imposed by them, provided that the complaint is made within sixty days from the date of the imposition of the fine. This period of sixty days shall not admit of extension.
3. To make and promulgate proper rules for the execution of this decree, and take all other measures of general character which may be deemed necessary.

The division of the Council of State vested with the power to act as a tribunal in cases to which the Government is a party, shall take cognizance of the claims filed against the Colonial Department under the provisions of Title IV of the present decree.

ART. 45. Questions in regard to the ownership and possession of trade marks shall fall under the jurisdiction of the ordinary courts of justice, and the action of the executive authorities shall be confined to the exhibition of the drawings of the trade mark and to the recognition, in due time, of the rights of ownership of the party in whose favor the decision of the court has been rendered. The trade mark shall not become extinct by the action of time during the litigation.

## TITLE IX.

*Transitory provisions.*

ART. 46. Manufacturers, merchants, agriculturists, or the companies formed by them, who may have been using a trade mark without first securing the certificate of ownership, shall have to ask for it within ninety days, to be counted from the date of the present decree, and to abide, furthermore, by the provisions of the same.

ART. 47. The registration of the trade marks made in strict compliance with the provisions of the decree of March 8, 1880, and of the royal order and regulations of March 31, 1882, shall be valid for the effects of article 12 of the present decree.

Notwithstanding this, and in order to secure uniformity for the registration of trade marks, the interested parties shall have to come again within one year—a period which shall not be extended—and apply for a new registration, in the manner and form established by article 11 of the aforesaid regulations of March 31, 1882.

ART. 48. The failure on the part of any person or company referred to in the two preceding articles to apply for the certificate of registration as therein directed, shall be construed as a waiver or renouncement of the right to do so, and the ownership of the trade mark shall be granted to whomever may come and ask for it.

ART. 49. In order to secure that the collection of trade marks, drawings, etc., to be kept in the royal economical societies be as complete as desired, all merchants, manufacturers, agriculturists, business men, etc., who are in lawful possession of a trade mark, shall have to forward to the respective society within the period of ninety days, two copies of their respective marks. The failure to do so shall render them liable to the fine established by article 39.

ART. 50. The Government shall publish such rules as may be necessary for the execution of this royal decree.

ART. 51. All previous laws and regulations which may be in opposition to the present royal decree are hereby repealed.

ART. 52. The Government shall endeavor to secure the recognition by foreign governments of the ownership of the Cuban trade marks, either by including it in the commercial treaties

which may be concluded by it, or by special conventions to that effect.

ART. 53. The Government shall report to the Cortes the promulgation of this royal decree.

Done at El Ferrol on the 21st day of August, 1884.

ALFONSO.

By the King:

MANUEL AGUIRRE DE TEJADA,  
*Colonial Secretary.*

## II.

### *Civil order No. 511.*

HEADQUARTERS DEPARTMENT OF CUBA,  
*Habana, December 18, 1900.*

The Military Governor of Cuba, upon the recommendation of the Secretary of Agriculture, Commerce, and Industries, directs the publication of the following order:

I. Paragraph 2, article 36, of the royal decree of the 21st of August, 1884, referring to concession and use of trade marks in the island of Cuba, is hereby annulled.

II. In place and stead of said paragraph, the following is hereby declared to be in force from and after the date of the publication of this order:

Manufacturers, merchants, agriculturists, and industrials applying for registration of the same marks having distinguishing minor details, with the object of pointing out the various classes and grades of one product, or for any other motive, shall be furnished with a certificate of registration for each variation of the mark, stating their special use, and charging them the corresponding fees (\$12.50 United States currency) for each certificate issued.

H. L. SCOTT, *Adjutant-General.*

## III.

### *Civil order No. 512.*

HEADQUARTERS DEPARTMENT OF CUBA,  
*Habana, December 19, 1900.*

The Military Governor of Cuba, upon the recommendation

of the Secretary of Justice, directs the publication of the following order:

I. Paragraph 1, article 12, of the royal decree of August 21, 1884, is hereby amended by adding at the end thereof the following:

“Those who should buy or sell receptacles stamped in a permanent manner with a trade mark, which is registered in the name of another person, except when the sale is made to the latter person or his authorized agent; and those who should use such receptacles, and fill them for the purpose of sale with articles of the same or similar nature. In such cases the receptacles shall be seized, and the infringer shall forfeit them to the benefit of the owner of the trade mark.”

II. Article 287 of the penal code is hereby amended by adding to the end thereof the following:

“The same penalty shall be incurred by those who buy or sell receptacles stamped in a permanent manner with a trade mark which is registered in the name of another person, or who use such receptacles, placing therein for sale the same or similar products as those for which said receptacles are used by the owner of the trade mark. In such cases the receptacles shall be seized, which the infringer shall forfeit to the owner of the trade mark.”

III. This order shall take effect January 1, 1901.

H. L. SCOTT,  
*Adjutant-General.*

TRANSLATION OF THE PENAL CODE IN FORCE IN CUBA AND PORTO RICO.

ART. 287. The counterfeiting of seals, marks, tickets, or countersigns which industrial or commercial establishments make use of, shall be punished with imprisonment at hard labor (*presidio correccional*) in its minimum and medium degrees.

## IV.

*Civil Order No. 18.*

HEADQUARTERS DEPARTMENT OF CUBA,  
*Habana, January 17, 1901.*

The Military Governor of Cuba, upon the recommendation of the Secretary of Agriculture, Commerce, and Industries, directs the publication of the following order:

I. Article 28, of the royal decree of August 21, 1884, referring to concession and use of trade marks in this island, is hereby amended to read as follows:

“ART. 28. The petitioner shall pay for fees, on the issuance of the title of ownership, \$12.50 United States currency. Said payment shall be made at the proper office of finance within a term of thirty days from the date of the notification of the concession of the trade mark, design, or industrial model to the party concerned, under the penalty of forfeiture, presenting at the Department of Agriculture, Commerce, and Industries the documents attesting such payment, so that said Department may issue the title mentioned, which shall be entered on the register opened for this purpose at the Bureau of Commerce and Industries of said Department.”

II. A term of forty-five days from the date of publication of this order is hereby granted to those who having obtained in Cuba concessions of trade marks, designs, or industrial models are not in possession of the corresponding title of ownership to apply for them at the Department of Agriculture, Commerce, and Industries, and pay thereon, upon delivery, the proper fees, as prescribed by regulations, under the penalty of forfeiture. Those using trade marks, designs, or industrial models without the corresponding title of ownership will pay the fine which they may have incurred, in accordance with the provisions of Paragraph I, article 39, of the royal decree of August 21, 1884.

H. L. SCOTT, *Adjutant-General.*

## V.

*Civil Order No. 105.*

HEADQUARTERS DEPARTMENT OF CUBA,  
*Habana, April 19, 1901.*

The Military Governor of Cuba, upon the recommendation of the Secretary of Agriculture, Commerce, and Industries, directs the publication of the following order:

Article 10 of the royal decree of August 21, 1884, governing the concession and use of trade marks in this island is hereby amended to read as follows:

“ART. 10. The certificate of ownership of any mark, design, or industrial pattern can only be obtained, for the purposes of this decree, by manufacturers, merchants, agriculturists, or by persons engaged in any other industry, whether they be Cubans or foreigners established in Cuba, and also by companies composed of any of such persons.”

J. B. HICKEY,  
*Assistant Adjutant-General.*

## VI.

*Civil Order No. 160.*

HEADQUARTERS DEPARTMENT OF CUBA,  
*Habana, June 13, 1901.*

Under instructions from the Secretary of War, the Military Governor of Cuba directs the publication of the following order:

1. The rights of property in patents copyrights, and trade marks duly acquired in Cuba, the Isle of Pines, and the island of Guam pursuant to the provisions of Spanish law and existing in one or all of said islands on April 11, 1899, shall continue unimpaired for the period for which they were granted, and the owner or owners thereof shall be protected and their rights therein maintained: *Provided*, That the original or a duly certified copy of the patent or of the certificate of registration of the trade mark or copyright is filed in the office of the governor of the island wherein such protection is desired.

The certificates of registration of trade marks issued prior to April 11, 1899, by a Spanish provincial registry or the Na-

tional Registry of Spain, at Madrid, or the International Registry at the Bureau of the Union for the Protection of Industrial Property, at Berne, Switzerland, shall receive such recognition and credence as were accorded them in said islands under Spanish sovereignty; and an original certificate or duly certified copy thereof shall be received and filed in the office of the governor of the island for all purposes connected with this order without further or other certification.

2. The rights of property in patents, including design patents granted by the United States, and in trade marks, prints, and labels duly registered in the United States Patent Office and in copyrights duly registered in the office of the Librarian of Congress shall be maintained and protected by the government of civil affairs in the islands above named: *Provided*, That a duly certified copy of the patent or of the certificate of registration of the copyright, trade mark, print, or label is filed in the office of the governor of the island wherein such protection is desired.

3. An infringement of the rights protected by compliance with the provisions of this order shall subject the person, firm, association, or corporation guilty of such infringement to the civil and penal liabilities created and imposed by such of the laws of Spain relating to said matters as remain in force in said islands.

4. Such provisions of existing orders as are in conflict with this order are hereby revoked.

EDWARD CARPENTER,

*First Lieutenant, Artillery Corps, Aid-de-Camp.*

## PROVISIONS RESPECTING PATENTS AND TRADE MARKS.

### I.

*Circular No. 12.*

DIVISION OF CUSTOMS AND INSULAR AFFAIRS,  
WAR DEPARTMENT,  
*Washington, April 11, 1899.*

The following is published for the information and guidance of all concerned:

In territory subject to military government by the military forces of the United States owners of patents, including design patents, which have been issued or which may hereafter be issued, and owners of trade marks, prints, and labels, duly registered in the United States Patent Office under the laws of the United States relating to the grant of patents and to the registration of trade marks, prints, and labels, shall receive the protection accorded them in the United States under said laws; and an infringement of the rights secured by lawful issue of a patent or by registration of a trade mark, print, or label shall subject the person or party guilty of such infringement to the liabilities created and imposed by the laws of the United States relating to said matters: *Provided*, That a duly certified copy of the patent or of the certificate of registration of the trade mark, print, or label shall be filed in the office of the governor-general of the island wherein such protection is desired: *And provided further*, That the rights of property in patents and trade marks secured in the islands of Cuba, Porto Rico, the Philippines, and other ceded territory to persons under the Spanish laws shall be respected in said territory the same as if such laws were in full force and effect.

G. D. MEIKLEJOHN,  
*Acting Secretary of War.*

## II.

### *Circular No. 21.*

DIVISION OF CUSTOMS AND INSULAR AFFAIRS,  
WAR DEPARTMENT,

*Washington, D. C., June 1, 1899.*

The following is published for the information and guidance of all concerned:

Parties who desire protection in territory under government of the military forces of the United States for patents, trade marks, prints, or labels, as provided in circular No. 12, Division of Customs and Insular Affairs, War Department, should forward a certified copy of the patent or of the certificate of registration of the trade mark, print, or label, together with a letter of transmittal to the governor-general, requesting that such copy be filed in his office for reference.

Upon the receipt of such certified copy the governor-general will issue his formal receipt therefor and forward it to the party filing the same.

A fee of \$1 will be charged for filing such copy, and should be inclosed with the letter of transmittal to the governor-general.

The requirements for filing under the provisions of circular No. 12, above referred to, apply only to patents duly issued and to trade marks, prints, or labels duly registered in the United States Patent Office, under the laws of the United States. The only certification required is that issued by the Commissioner of Patents. Communications should be addressed to the Governor-General of Cuba, Habana, Cuba, or Governor-General of Porto Rico, San Juan, P. R., or Governor-General of the Philippine Islands, Manilla, P. I.

G. D. MEIKLEJOHN,  
*Assistant Secretary of War.*

### III.

#### *Circular No. 34.*

DIVISION OF CUSTOMS AND INSULAR AFFAIRS,  
WAR DEPARTMENT,  
*Washington, September 25, 1899.*

The following is published for the information and guidance of all concerned:

So much of circular No. 21, of the Division of Customs and Insular Affairs, War Department, dated June 1, 1899, as requires the payment of a fee for filing certified copies of patents or certificates of registration of trade marks, prints, or labels is hereby rescinded.

Said circular No. 21 is hereby further amended by the addition thereto of the following paragraphs:

"A power of attorney from the owner thereof, authorizing another, for him and in his name, place, and stead, to file a certified copy of a patent or a certificate of registration of a trade mark, print, or label must be filed with such certified copy or certificate of registration in each of the islands wherein the protection of such patents, trade marks, prints, or labels is desired.

"Assignments of patents, trade marks, prints, or labels, or certified copies thereof, must be filed in the same manner as herein provided for filing certified copies of patents and certificates of registration of trade marks, prints, or labels."

G. D. MEIKLEJOHN,  
*Assistant Secretary of War.*

#### IV.

• *Circular No. 38.*

DIVISION OF CUSTOMS AND INSULAR AFFAIRS,  
WAR DEPARTMENT,  
*Washington, March 9, 1900.*

The following is published for the information and guidance of all concerned:

So much of circular No. 34, Division of Customs and Insular Affairs, as rescinded the provisions of circular No. 21, same series, relating to fees is hereby revoked.

Said circulars, except so much of circular No. 34 as is hereby revoked, shall, on and after this date, be given full force and effect in Cuba, Porto Rico, and the Philippine Islands.

G. D. MEIKLEJOHN,  
*Acting Secretary of War.*

#### V.

HEADQUARTERS OF THE DIVISION OF CUBA,  
*Habana, May 14, 1900.*

Whereas the portion of circular No. 34 of the division of Customs and Insular Affairs of the War Department, relating to fees has been repealed, all that is provided in circular No. 21 of the same division remains, therefore, in force. The fee of \$1, in the currency of the United States, shall thus be paid for each certificate of patent, or of trade mark, engraving, print, etc., asked to be inscribed. The fee shall be inclosed in the petition.

## VI.

HEADQUARTERS DEPARTMENT OF CUBA,  
*Habana, May 13, 1902.*

Whereas the seventh clause of the transitory rules contained in the constitution adopted by the constitutional convention of Cuba provides as follows:

“All laws, decrees, regulations, orders, and other rulings which may be in force at the time of the promulgation of this constitution shall continue to be observed in so far as they do not conflict with the said constitution, until such time as they may be legally revoked or amended;” and

Whereas certain of the laws, decrees, regulations, orders, and other rulings made and promulgated by the Military Governor of Cuba and now in force are in terms specifically applicable and apparently limited to the military government and the officers thereof:

Now, therefore, to the end that the foregoing provision may be fully operative, and that none of the matters and things to which said laws, decrees, regulations, orders, and rulings relate shall be, or appear to be, without regulation and control after the termination of the military government and pending action thereon by the government established under the said constitution when the same shall have taken effect:

It is hereby declared and ordered that each of the said laws, decrees, regulations, orders, and other rulings made and promulgated by and under the military government of Cuba shall be deemed to be general and continuing in its character, and to be applicable to and binding upon all officers of the Government of Cuba, under whatsoever names or titles, who shall succeed the officers of the military government, and to continue in force and effect under whatsoever government shall exist in Cuba until such time as it may be legally revoked or amended pursuant to the provisions of the constitution aforesaid.

LEONARD WOOD,  
*Military Governor.*

## VII.

*Decree of the Cuban Government on American Patents.*

[*Gaceta de la Habana* of June 23, 1902.]

DEPARTMENT OF AGRICULTURE,  
COMMERCE, AND INDUSTRIES,  
*Habana, June 21, 1902.*

The military government of the United States having ended, by virtue of which, according to the express text thereof, circulars Nos. 12 and 21, of April 11 and June 1, 1899, respectively, of the Division of Customs and Insular Affairs of the War Department, Washington, relative to the registration of American brands and patents, are without value or effect, inasmuch as said circulars were issued for the territories subject to military government by the military forces of the United States, I have resolved that patents and brands of all kinds, prints, labels, and trade marks registered in the Patent Office of the United States, the deposit of which, for their protection in this island, is requested in the future, shall, from this day on, be registered in the Department under my charge, if same is proper, through the medium of the same procedure followed for the registration of those of other countries and payment of \$35 currency for patents and \$12.50 currency for brands, prints, etc., or, that is, the same fees paid for all others, domestic and foreign, instead of \$1 currency, fixed by the said circular No. 21, with respect to those of the United States.

This is published in the *Gaceta de la Habana* for general information.

EMILIO TERRY,  
*Secretary of Agriculture, Commerce, and Industries.*

## DOMINICAN REPUBLIC.

### LEGISLATION ON PATENTS AND TRADE MARKS.

Although the Constitution of the Dominican Republic guarantees the ownership of discoveries and scientific, artistic, and literary productions, no special law has been enacted providing for the manner of granting patents or regulating the use to be made of trade marks.

In default of such a law, the necessity of attending to the frequent applications of inventors and merchants and industrial people has caused the Government to adhere, as closely as permitted by local circumstances, to the best rules and practices observed in this matter in the most civilized countries.

Acting in this way, exclusive privileges are granted temporarily for all classes of inventions, and the exclusive use of trade marks is also authorized for certain limited times, provided that the applicant should comply with certain requisites and pay certain fees.

The matter of patents and trade marks is now in charge of the Department of Fomento, to which all applications on the subject, accompanied with the necessary documents, should be addressed.

No special penalty has been established for punishing infringements. The general provisions of the Civil Code shall prevail in the matter.

A law is now in preparation which is expected to meet all the requirements of the case in respect to patents and trade marks.

## ECUADOR.

## PATENT LAW OF NOVEMBER 3, 1880.

The Congress of the Republic of Ecuador consider that it is important to regulate the mode and form of grant of patents of invention in order to avoid their being transformed into a species of monopoly and to facilitate the acquisition of them if useful to science, art, and industry. It is decreed—

ARTICLE 1. The law assures to every inventor the full and entire enjoyment of his own invention, provided that it be not contrary to the laws or good morals.

ART. 2. The following shall be considered as inventions: The means or methods which may be discovered for the improvement of any manufacture or industry.

ART. 3. The following shall not be considered as inventions: Those which consist in theoretical modifications or objects of pure ornament.

ART. 4. The State shall have power to buy for public use the secret of any invention useful to industry.

ART. 5. To assure the author of an invention or of an improvement the enjoyment of his exclusive property, a patent is to be conceded to him of which the duration shall not be less than ten years or more than fifteen.

ART. 6. It is unlawful to grant patents to inventors of secret remedies; they ought to publish the composition of these under the reserve of a just indemnity.

ART. 7. The introducers of machines or of new methods of manufacture or industry unknown heretofore in the Republic will have the right of obtaining exclusive patents, which will be conceded upon the following scale:

ART. 8. If the establishment of the machine or industry imported requires a capital or an advance of 25,000 pesos, the patent will be granted for three years; if this capital be raised to 50,000 pesos, it will be granted for six years; and if the same capital amounts to 100,000 pesos or more, it will be granted for ten years.

ART. 9. The patent conceded to introducers of machines or

of novel methods of manufacture or of industry already known and employed abroad will only effect for the locality where the machine will be worked or the territory necessary for its exploitation.

MANNER OF OBTAINING PATENTS OF INVENTION, IMPROVEMENT,  
OR IMPORTATION.

ART. 10. The applicant for a patent in any one of these classes must present to the Executive an application in which he will explain what the invention or improvement consists in, reserving to himself the secret of the method of the substances or of the ingredients of which he makes use or of the instrument which he employs. This application must be accompanied by a specimen of the article, of the metal worked, or of the improved invention.

ART. 11. When an application is made for a patent of importation the interested party will add to his application drawings or models of the machine which he proposes to establish or a detailed specification describing the principles, methods, and processes of the industry which he desires to establish in the territory of the Republic, as well as the product which he proposes to manufacture.

ART. 12. The Government will then name a commission of three competent persons to judge of the matter and examine the process or secret constituting the invention, improvement, or importation.

ART. 13. This commission will be always presided over by the political chief of the canton where the patent is to be worked; and if the patent be taken for the entire Republic, by the chief of the canton where the application shall be presented and by two members of the municipal council, who will proceed to the examination of the matter set forth in the preceding article.

ART. 14. The two members of the municipal council and the three members of the commission named by the Government will take before the same political chief an oath not to reveal the secret of the invention or improvement and to conscientiously perform their mission.

ART. 15. The commission and the two members of the municipal council will then discuss (the interested party not

being present) the advice which they ought to present, taking care to set forth all the divergencies of opinion which may occur between themselves.

ART. 16. The advice or report mentioned in the preceding article will be remitted under sealed cover with "communication réservée" to the Minister of the Interior. In the same envelope will be inclosed the description of the manufacture, machine, or other details which constitute the invention, the improvement, or importation.

ART. 17. Within a maximum period of three months after the receipt of the report of the commission charged to examine the invention, improvement, or importation of the new industry, the Executive power will remit to Congress the papers furnished by the applicant as well as the report cited above.

The Congress after examination will concede or refuse the patent. In the first case it will return the papers presented by the Executive power, and the latter will send the patent upon stamped paper of the tenth class and caused to be registered at the Ministry of the Interior the application or specification spoken of in article 11.

ART. 18. In order to avoid the abuse which owners of patents can make of their patents, the Government will declare upon the same that it does not guarantee either the reality, the merit, or the utility of the invention, improvement, or importation, and that the interested party will work the same at his own risk and peril.

ART. 19. The owner of a patent who shall desire to make changes in his invention or in his original application before obtaining his patent or before the expiration of the term of his patent must make a declaration in writing accompanied by the description of his new methods in the form and fashion prescribed in article 10 in order to obtain a corresponding alteration in his patent of which the duration shall not in the meantime be prorogued.

#### THE RIGHTS OF OWNERS OF PATENTS.

ART. 20. The owner of a patent shall enjoy exclusively the benefit of an invention, improvement, or importation made the object of his patent.

ART. 21. He shall have the right of forming establishments

in all parts of the Republic, if his invention is taken for the whole extent of it or all of the localities to which he shall be limited or to authorize parties to employ his methods as well as to dispose of his right as personal property.

ART. 22. The owner of a patent shall not be able to assign it in whole or in part except by a notarial act under pain of losing all rights to his patent.

ART. 23. In case of an interference or doubt between the authors of two applications, the priority of application for a patent shall be decided by the certificate of the Under Secretary of State for the Interior, who shall inscribe the date and hour of the presentation of the respective applications.

#### ON THE DURATION OF PATENTS.

ART. 24. The duration of patents of invention, improvement, or importation shall commence to run from the date of the decree of their grant.

ART. 25. The letters patent once accorded by the Government shall be registered in a special book at the Ministry of the Interior. At the same ministry shall remain also filed until the expiration of the term of the patent the original application, the specification, and other papers spoken of in article 10.

ART. 26. The grant of patents shall be communicated officially by the Minister of the Interior to the governors of the cantons and published in the Official Journal, it shall also be transcribed in the collections of laws and decrees.

#### CONCERNING THE RIGHTS OF THE NATION AT THE EXPIRATION OF THE TERM OF THE PATENT.

ART. 27. When the term of duration of a patent has expired the invention, the improvement, or the importation of the new industrial process for which such patent has been granted will become public property.

ART. 28. At the expiration of a patent the specification and other documents mentioned in article 10 will be published and deposited in the Public Library of the capital of the Republic.

ART. 29. When a patent shall be declared void from any

of the causes mentioned in the law, it shall likewise be published and deposited in the Public Library with the object mentioned in article 27.

ART. 30. The Government will print the specifications and drawings required for the understanding of the process when it shall become public property, and will forward a sufficient number of copies to the governors of Provinces.

#### CONCERNING GUARANTEES FOR THE PATENT AGAINST FRAUD.

ART. 31. The patentee, if he can show sufficient cause, may, by provisional mandate, require the sequestration of machinery, instruments, or products used or manufactured in infringement of his rights, observing with regard thereto the provisions of the laws as in force.

ART. 32. The proprietor of such goods shall, if proved guilty of fraud, be condemned to the confiscation of the goods seized, for the benefit of the patentee, and also to the payment to the latter of damages and interest in proportion to the importance of the fraud.

ART. 33. If the offense be not proved the (patentee) plaintiff shall pay the defendant for the damages caused by the seizure, and, further, a fine equal to that which would have been imposed on the defendant if he had been convicted of fraud.

ART. 34. If the patentee be disturbed in the exercise of his exclusive rights he may bring any persons so disturbing him before the ordinary tribunals by which the penalties provided by the preceding articles may be imposed. But if he shall raise any discussion as to the validity of the patent, judgment must be given by the administration in the person of the Minister of the Interior.

ART. 35. In case of dispute between two patentees, with regard to two exactly similar inventions, the patent first granted shall be considered valid.

ART. 36. The second patentee shall in this case be considered as improver of the invention.

#### CONCERNING GUARANTEES FOR THE NATION AGAINST ABUSES BY THE PATENTEES.

ART. 37. Shall be declared void, all patents granted for an

invention, improvement, or importation which the tribunals shall condemn as contrary to the laws of the State, to public safety, or to police regulations. The patentee will in this case forfeit all claim to an indemnity.

ART. 38. The patents shall also be declared to have become extinct in the following cases: First. If the inventor be proved to have concealed in his specification the true method of working his invention. Second. If the inventor be proved to have used secret processes which have not been detailed in his specification nor in the declaration which, by article 19, he is allowed to make to modify the same. Third. If the inventor, or one pretending to be such, be proved to have obtained a patent for an invention which has already been described and published through the press in the Republic or elsewhere. Fourth. If the patentee has allowed a year and a day to pass from the date of granting the patent without having worked his invention and without having justified himself in view of the circumstances as allowed by the laws. Fifth. If the inventor or the licensee of his rights, on any grounds, shall violate the obligations attached to the use of his patent.

ART. 39. In all cases where the patent shall become void or extinct, from any cause, the provision of article 27 will be applied.

ART. 40. Every patentee must undertake to submit to the laws of the country on all occasions with regard to his patent, and must expressly reject all complaint or diplomatic intervention.

ART. 41. All patentees who have patents already in the Republic are subject, as regards the conditions involving the lapse of such patent, to the provisions of this present law.

#### TRADE MARK LAWS.

The trade mark laws of Ecuador are the following:

*Law of October 22, 1899.*

The Congress of the Republic of Ecuador decrees the following law on trade and commercial marks:

ARTICLE 1. A registry is created in the Ministry of the Interior for trade and commercial marks.

ART. 2. The application for the registration shall be presented, with two copies of the mark, to the Minister of the Interior.

ART. 3. In the application shall be stated:

1. The name and domicile of the person to whom the mark belongs.

2. The manufacture or article that is distinguished with it in commerce.

3. The principal place or places where the factory or commercial establishment is located.

If the applicant is represented by an attorney the latter must join to the petition the respective power with special clause.

ART. 3. The application having been presented, the Subsecretary of the Ministry shall note the day and the hour in which it was received, shall number and rubric each one of the pages, and bring the same to the knowledge of the minister within three days.

If he should not make such report within that time a fine of 1 sucre shall be imposed on him for each day of delay.

ART. 4. The minister shall determine whether the application has been written on the proper stamped paper, and whether the requisites set forth and prescribed in articles 2 and 3 have been complied with.

If any requisite should be lacking the minister shall order that the fault shall be remedied, and when remedied he shall decree the registration, and that same be published in the official periodical, that the proceedings be duly recorded, and that a copy of the registration shall be granted to the interested party.

The decree of registration shall comprehend the particulars pointed out in article 2.

The payment of 25 sueres shall precede the registration, which sum shall be deposited in the Treasury.

The decree shall be transcribed literally in the register, and the Subsecretary shall certify that it is a copy of the decree issued by the minister, and shall determine thus the date of the decree, as well as the number of the papers in which appears the original proceedings.

ART. 5. The registration being made, the Subsecretary, at the verbal request of the interested party, shall give to him, on stamped paper of the fifth class, a copy of the registration, and shall return to him, annotated, one of the copies of the mark.

ART. 6. The two copies pointed out in the preceding article shall be published, at the cost of the interested party, in the official periodical; and if through the negligence of the interested party it is not published, the registration will be void.

The copies having been published, the effect of the registration is retroactive to the date in which it was solicited.

ART. 7. The register will be formed each year of the registrations that from the 1st of January until the 31st of December shall have been made.

The registrations shall be effected successively without leaving between one and another more space than one line, and the number that corresponds to the date of the decree upon the registration should immediately follow.

At the end of each register shall be formed an alphabetical index of the applicants, stating the number of the registration and the page on which it appears.

The papers also shall be numbered and the numeration shall correspond to that of the registration.

ART. 8. The Subsecretary of the Ministry must give, on the proper stamped paper, and without demanding fees, the copies that may be asked of him.

ART. 9. The right of employing the registered marks is deemed personal property.

But the assignment of said right must be shown by an instrument recorded in the register.

If the instrument should be a private one it must be recognized as such before the registration is made.

The assignment shall be published in the official periodical.

If any of these requisites should be lacking the assignment will be without effect.

ART. 10. The civil controversies that may arise by reason of trade marks will be settled and decided upon by the respective judges.

All infringements will be punished according to the penal code.

Given at Quito, capital of the Republic, on the 22d of October, 1899.

*Law of October 9, 1901.*

The Congress of the Republic of Ecuador decrees:

ARTICLE 1. Article 1, of the law upon trade marks, enacted in 1899, shall read:

“There shall be established a register of trade marks in the ministry that the Executive power may designate.”

ART. 2. Article 2 shall read:

“The application for registration shall be presented with two examples of the trade mark to the respective ministry.”

ART. 3. Article 4 shall read:

“The minister shall examine whether the application is in conformity with the provisions of articles 2 and 3. If it is, he shall order the registration and that the papers be filed. The registration shall comprehend the particulars enumerated in article 2.

“If the mark should be foreign the registration shall be preceded by the payment of 30 sueres, and by that of 10 if the mark should be national.”

ART. 4. Article 5 shall read:

“The registration being made, the subsecretary, at the verbal request of the interested party, shall give him on paper of the 9th stamp (2 sures) a copy of the registration, and shall return to him, annotated, one of the examples of the mark.”

ART. 5. Article 6 shall read:

“The copy pointed out in the preceding article shall be published in the official periodical, and if within thirty days from the date of issue it is not published, the registration shall be forfeited.”

The copy being published the effect of the registration is retroactive to the date on which it has been solicited.

ART. 6. Article 9 shall read:

“The assignment of the right to a mark shall be inscribed in the register.”

Should it be made by means of a private document, this shall be acknowledged before the inscription is made.

The inscription shall be published in the official periodical.

ART. 7. Article 10 is hereby suppressed.

ART. 8. The law enacted in 1900 modifying the trade mark law is hereby repealed.

Given at Quito, October 9, 1901.

DOCUMENTS REQUIRED.

1. Power of attorney, signed by the applicant, and legalized by a consul of Ecuador.
2. Five copies of the mark.
3. A statement containing the name and domicile of the proprietor; the manufacture or articles upon which the mark is used, and the manner of its employment, and the principal place or places where the factory or commercial establishments are located.
4. A woodcut or electrotype of the mark. This should be as small as possible.
5. The registration will be greatly facilitated and expedited if the application is accompanied by a certified copy of the certificate of registration in applicant's own country, legalized by a consul of Ecuador.

## GUATEMALA.

PATENT LAW PROMULGATED DECEMBER 17, 1897.

### CHAPTER I.

#### *General provisions.*

ARTICLE 1. Every discovery or invention in any kind of industry or art gives to its author the exclusive right to profit by his invention or improvement for the time and under the conditions established by this law.

ART. 2. Every citizen of Guatemala, or foreigner domiciled in the Republic, who invents any machine, instrument, or mechanical apparatus, manufacture of any kind, or method of process of useful application to the sciences or the arts, may obtain from the Government a "patent of invention," which secures to him, for a term of five to fifteen years, the property of his invention. Likewise he who improves a patented discovery or invention will have the right to apply for an "additional patent," which shall never be granted for a longer term than that which remains of the original patent.

ART. 3. The following shall be considered new discoveries or inventions: New industrial products; new means, and the new application of known means, for the obtaining of an industrial result or product, whether it be for a process completely original, or for improvements on those already known.

ART. 4. Patents shall not be granted for discoveries or inventions already known in the country, or abroad, and used wholly or in part in some industry.

ART. 5. The grant of a patent entails the annual payment to the Public Treasury of a sum of \$30 as long as the patent lasts.

ART. 6. The first annual payment shall be made at the time of the granting of the patent, and each one of the others shall have to be made within the first ten days of January, under penalty of cancellation of the patent.

ART. 7. Patents shall not be granted when the invention or improvement is in opposition to rights previously acquired by a third party, or to public health, security, or morality.

ART. 8. Patents shall become extinct:

1. When granted to the prejudice of the rights of a third party, if so declared by decision of a competent court.
2. When one year has elapsed without the industry or enterprise for which the patent was authorized being put into practice.
3. When the enterprise or industry has been abandoned for one year after its being started.
4. When the articles produced are inferior, because of adulteration, to the samples originally exhibited.

The extinction of the patent is to be declared by the competent tribunal and on motion of any citizen or of the District Attorney.

ART. 9. Improvers of patented inventions can not use the original invention without making an agreement to that effect with the inventor; nor can the inventor use the improvement patented without permission of the improver.

ART. 10. Patents shall be understood as granted only for the process, not for the products which may be obtained by a different system.

ART. 11. When the time stated in the patent has elapsed, the descriptions made by the inventor or author shall be published, copies of the same shall be given to whomsoever may ask for them; and from that time forward the manufacture by the process thus far patented shall be free.

## CHAPTER II.

### *Formalities for the granting of patents.*

ART. 12. Every citizen of Guatemala, and every foreigner who has lived one year in the country, and is the inventor or improver of a machine, instrument, apparatus, manufacture, or industrial method, or process, may obtain from the Executive a patent of invention or of improvement. Foreign inventions may be patented in this Republic only when by this means a new industry can be established in the country, because the methods of fabrication are secret; and when there are international treaties or conventions providing that it be done.

ART. 13. In granting a patent the Government saves al-

ways the rights of third parties to claim the preference which they may have under the law.

ART. 14. Applications for patents shall be filed at the office of the Secretary of Fomento, and shall be written on stamped paper of the twenty-five cent class. At the foot of each application the under secretary shall note under his signature the hour and day on which it was presented, and if requested he shall give a receipt to the applicant.

ART. 15. Applications shall be accompanied by the samples, drawings, or models, according to the nature of each case, and by a sworn declaration, executed before a notary, containing a clear description of the invention and the statement that up to that date there was no knowledge of it. They shall be also accompanied by a receipt of the fees referred to in article 5.

ART. 16. The application having been filed, an order shall be made directing it to be published in the official newspaper for one month, and then it shall be referred to the Director of Public Works. If the technical matter involved in the invention or improvement falls under the jurisdiction of this official, he shall make his own report on the subject. In all other cases he shall refer the matter to an expert, at the cost of the interested party, said expert to report on the truth of the contents of the sworn declaration, on the strength of which a patent of invention or improvement is applied for, and on the advantages or disadvantages of the patent, with reference to industry and to safety or health. These formalities having been observed, the opinion of the Government attorney shall be heard.

ART. 17. If no opposition has been made, and the reports of the functionaries above named have not been adverse, an executive decree shall be issued granting the patent.

ART. 18. The patent shall consist of a certified copy, marked with the number that corresponds to it, of the application, the sworn declaration or description, the notice in the official periodical, the opinion of the expert, and the executive decree. A copy of the drawing of the patented machine or apparatus shall be appended to this certificate. These documents shall be issued by the head of the Patent Office upon payment of the cost of the writing or copy.

ART. 19. All kinds of judicial questions between private parties in regard to their respective rights to a patent, or to the truth of the sworn declaration or to alleged trespasses upon the rights of third parties, shall be decided by the courts of justice.

ART. 20. The Patent Office shall keep a book wherein all the patents granted shall be entered, in chronological order, each entry to be marked by its own number, and made in such a way as to conform with the requirements of article 18.

ART. 21. The decree by which the patent is granted shall be published in the official newspaper; and every year the Patent Office shall publish, in pamphlet form, a list of the patents granted with the descriptions that are not secret.

### CHAPTER III.

#### *Assignment of patents.*

ART. 22. Patentees of invention or improvement may transfer their rights, under the conditions they may deem proper, provided that the assignee binds himself to pay the annual tax, that the transfer is made in writing, that it is recorded in the book of patents and that it is published in the official periodical.

ART. 23. The deed of transfer shall indicate whether the patent in full, or only the right to manufacture the patented article, is assigned and whether the conveyance is to take effect only within a definite territory or in the whole of the Republic.

### CHAPTER IV.

#### *Penal provisions.*

ART. 24. The following shall be punished with a penalty of six months to a year of imprisonment, commutable in all or in part, under article 46 of the Penal Code:

1. Those who counterfeit patented machines, apparatuses, or pieces of apparatuses.

2. Those who knowingly engage in the trade or commerce of counterfeited machines or apparatuses.

3. Those who counterfeit patented products or manufactures.
4. Those who knowingly engage in the trade or commerce of counterfeited articles.
5. Those who, in violation of article 15, have made a false declaration.
6. Those who cause nonpatented objects to appear as patented.

ART. 25. Persons having for sale counterfeited articles are under the obligation to inform the patentee of the name of the author or vendor thereof and of the date on which they were delivered to them. They shall be considered accomplices in case they do not give a satisfactory explanation of their being in possession of the said articles.

ART. 26. In addition to the penalty fixed by article 24, the infringer shall lose the articles manufactured by him, and pay the proper indemnification for damages.

ART. 27. No civil or criminal action can be brought in these cases if the articles of legitimate origin do not bear an indication, whenever it is possible, of their being patented and the number of the patent. Neither can such actions be brought after a lapse of three years from the commission or repetition of the offense, or after one year from the day the patentee had knowledge of the fact for the first time. The acts which may interrupt the time required for limitation, shall be the same determined by the general law.

ART. 28. Workmen who betray secrets of the factories in which they are employed, with reference to patented processes, shall be dealt with as accomplices.

## CHAPTER V.

### *Transient provisions.*

ART. 29. The Patent Office shall continue for the present in charge of the Director General of Statistics.

ART. 30. Those who previously to the date of the present law, were granted a patent of invention or improvement shall have their concessions renewed in conformity with this law, by proving to have paid the fee referred to in article 5.

Otherwise the patent shall be canceled. The cancellation shall be published in the official periodical.

ART. 31. The decree of May 20, 1886, shall remain in force only in so far as it relates to grants to new industries.

Art. 32. The next Legislature shall be given knowledge of the present law.

*Amendments to the patent law of December 17, 1897. Promulgated April 20, 1899.*

The National Legislative Assembly of the Republic of Guatemala does hereby decree:

SOLE ARTICLE. The Executive decree of December 17, 1897, marked No. 550, relating to patents of invention, is hereby approved, with the following amendments:

1. Article 2 of the said decree shall read:

“Any citizen of Guatemala, or any alien domiciled in the same Republic, who has invented a machine, instrument, or mechanical apparatus made or manufactured in any way whatever, or a new process or method of useful application to sciences or arts, may obtain from the Government a patent of invention, securing for him, for a period of time not exceeding fifteen years, the ownership of his invention.”

2. Article 14 shall read:

“The application for a patent shall be addressed to the Secretary of ‘Fomento,’ and shall be written on stamped paper of the proper class.”

3. Article 16 shall read:

“Upon the filing of the application an order shall be made directing the same to be published for one month in the official paper, and then referred for report to a committee of two experts. These experts shall give their opinion about the truth of the applicant’s sworn statements and claims regarding the invention or improvement for which the patent is requested, and also about the advantages or disadvantages of the same invention or improvement, whether in regard to industrial interests or to the public health or safety. This having been done, the papers shall be sent to the Attorney-General, without whose opinion nothing shall be decided.”

4. Article 17 shall be amended by adding to it the words “upon previous consultation with the Council of State.”

5. Article 19 shall read:

"All questions between private parties shall come under the jurisdiction of the courts."

6. Article 22 shall be amended by adding to it these words:

"In no case, save that of proven denial of justice, shall a diplomatic claim be admissible."

7. Article 24 shall read:

"The following shall be punished with the penalties established by the Penal Code: (1) Those who counterfeit patented machines, apparatuses, or the pieces thereof; (2) those who, knowing the said machines, apparatuses, or pieces of apparatuses, to be counterfeited, trade in them in any way whatever; (3) those who counterfeit patented products or manufactured articles; (4) those who, knowing the said products or articles to be counterfeited, trade in them in any way whatever; (5) those who have made a false declaration, thus violating the provisions of article 15; (6) those who represent as patented a nonpatented article."

#### TRADE MARK LAW.

[*May 13, 1899.*]

ARTICLE 1. The following shall be considered trade marks; Denominations of objects, or names of persons, under a particular form, emblems, monograms, engravings or prints, seals, vignettes and reliefs, letters and numbers with special design, boxes or wrappers of objects, and all other signs by which it is desired to distinguish the articles of a factory or the objects of a business.

ART. 2. The inscription of a trade mark has for its effect to concede to the possessor the exclusive right to affix it to the respective articles of merchandise and to the boxes and wrappers containing them, as well as to print it on his advertisements, prospectuses, business cards, or other similar papers.

ART. 3. The following shall not be considered trade marks:

1. Letters, words, names, or distinctive signs that are or should be used by the State alone.

2. The form given to the product by the manufacturer.

3. The color of the products.

4. The terms or phrases that have passed into general use.

5. Designations usually employed to indicate the nature of the products or the class to which they belong.

6. Designs and expressions contrary to morality.

ART. 4. The absolute ownership of the mark, as well as the right to oppose the use of any other mark which might directly or indirectly produce confusion between the products, shall belong to the manufacturer or merchant who has fulfilled the requisites provided by this law.

ART. 5. The exclusive ownership of the mark is acquired only with reference to industries of the same kind.

ART. 6. The use of the mark is optional. Nevertheless it might be compulsory when necessities of public good may require it.

ART. 7. The ownership of a mark passes to the heirs, and may be also transferred by contract or by last will and testament, provided that the formality referred to in article 10 of this law is fulfilled. Unless the transfer is recorded in the register the successor can not make valid the absolute right to which article 4 refers.

ART. 8. The assignment or sale of the establishment includes that of the mark, except in case of stipulation to the contrary, and the assignee shall have the right to use the mark that designates the establishment, even though it be a name, in the same manner as the assignor, without other restrictions than those expressly stated in the deed of sale or assignment.

ART. 9. The assignment of a mark must be recorded in the same office in which it was registered. Otherwise the rights that this law confers for registered marks shall not be conveyed to the assignee.

ART. 10. No trade mark shall be considered registered, for the purposes of ownership, if it is not inscribed at the proper office.

ART. 11. The protection of the rights of manufacturers, tradesmen, or industrial people with regard to the exclusive use of the mark shall last only ten years, which may be extended for equal periods of time by again fulfilling the formalities established and paying in each case the fee fixed by article 22.

ART. 12. Manufacturers or business men shall be permitted

to use for the products of their factories or industries the marks and distinctive names that they may deem proper, except the following:

1. The coat-of-arms of the Republic, or of any other country, except by authority of the respective Government.
2. The portrait of any person other than the manufacturer or tradesman, unless it is with his consent.
3. Distinctive signs that admit of confusion with other registered marks.

ART. 13. All those desiring to obtain the ownership of a mark must apply for it to the Department of Fomento.

ART. 14. The application for a trade mark shall be drawn up on stamped paper of the corresponding class and must be accompanied:

1. By two samples of the mark or the distinctive sign.
2. By a description in duplicate of the mark or sign, if it consists of figures or emblems, it being necessary to indicate the class of objects for which it is intended, and whether it is to be applied to products of one factory, or to objects of commerce.
3. By a receipt of the National Treasury showing that the tax established by article 22 has been paid. This tax shall be returned in case the registration of the mark is refused.
4. By a power of attorney executed in due form, in case the interested party does not appear personally.

ART. 15. If the mark should contain any countersign, and the interested parties should desire to keep it secret, they shall make a statement or description of said countersign on a sheet of paper which they shall inclose in a sealed envelope that only the court can open in case of litigation or criminal accusation. Said sheet of paper will be deposited in the Trade Mark Office.

ART. 16. At the foot of each application a statement shall be made of the day and hour at which it is filed, this statement to be signed and sealed by the under secretary, and the applicant shall have the right to ask for a receipt of the application, with notice of the hour at which he filed it.

ART. 17. The right of preference for the ownership of a mark shall be decided by the day and hour at which the application was filed at the office, and if there is a coincidence in

the hour, attention shall then be paid, for this purpose, to the date of the application.

ART. 18. The application for the ownership of a mark shall be published for one month in the official newspaper and shall then be referred for consideration and report to the Office of Trade Marks. If no opposition is made, and the report is not unfavorable, an executive decree shall be issued ordering the registration of the mark. The original record shall then be sent to the Trade Mark Office, in order that the registration should be made in proper form, that a notice of the number, page, and book of the registry should be written on the original record, and that all the papers of the case be preserved in the archives. The certificate of the inscription, accompanied by one of the copies of the registered mark, shall serve the owner as evidence of his ownership.

ART. 19. In case of opposition, or of an unfavorable report, the Attorney-General shall be heard, and then the proper decision shall be given.

ART. 20. All disputes between parties on the right to the use of a mark, or the counterfeiting or imitating the same, shall fall under the jurisdiction of the courts.

ART. 21. The Director-General of Statistics shall have in its charge the Bureau of Registration of marks, and it shall be his duty to keep for this purpose all the necessary books conveniently arranged, numbered, and paged. The pages of the inscription book shall be arranged in three columns—one to paste or delineate the mark, another for the inscriptions, and the third for the cancellations. The registry of each mark shall be made by numerical and chronological order. An index-book, by alphabetical order, of surnames, shall also be kept, the industry to which the mark corresponds, the book, page, and number of the item. A report shall be published every year of all the marks registered during it. Each mark shall be described in this report.

ART. 22. For the registration and certificate of a mark, whatever its origin may be, a fee of \$30 (pesos) shall be paid. For the registration and certificate of transfer the fee shall be \$15. For each copy of the certificate \$5 shall be paid, in addition to the value of the stamped paper which is to be used. These fees shall be paid into the National Treasury.

ART. 23. The marks, as well as their descriptions, except the secret countersigns, shall be kept in the office at the disposal of any one who desires to examine them.

ART. 24. Factories situated in countries with which the Republic has entered into treaties in regard to this subject, may have their marks registered, by applying for it directly or by means of an attorney, and giving proof of the registration of the mark in the original country; but all the papers should be translated into Spanish and authenticated.

ART. 25. He who has inscribed his mark retains the ownership thereof as long as the courts do not order the registration to be canceled. Therefore, it may be assigned or allowed to be used by others; but the fact should be announced in the official periodical, and the deed of transfer or concession shall be recorded at the Trade Mark Office. Those who hitherto have failed to comply with these requirements shall take care to fulfill them to legalize their rights.

ART. 26. The name of a merchant or firm, and the sign or designation of a house that deals in determined articles, constitutes industrial property for the purposes of this law.

ART. 27. If a merchant desires to carry on an industry in which another person is already engaged with the same name or with the same conventional designation, he must change his own so as to make it visibly distinct from that used by the pre-existing house.

ART. 28. Joint stock companies have the right to use their names the same as any private individuals, and are subject to the same regulations.

ART. 29. The right to the exclusive use of a name as industrial property shall terminate with the commercial house that carries it or with the exploitation of the branch of industry to which it belongs.

ART. 30. The registration of a name is not necessary for securing the exercise of the rights granted by this law, except in case that it forms a part of the mark.

ART. 31. The registration of marks is granted without responsibility for the Government. Those considering themselves injured by third parties shall have recourse to the courts and seek redress through such civil or criminal action as may be proper.

ART. 32. Third parties can apply for the nullification of a mark:

1. When the inscribed possessor has not within the term fixed by article 11 continued to exercise the industry to which the mark belongs.

2. When there are circumstances that lead to the belief that the tenor of the mark does not correspond to its real products, the risk of misrepresentation being thus imminent. (Division 3, art 34.)

3. The petition for the nullification of a mark shall be filed before the courts, and the inscribed possessor, or his heirs, in case of death, shall be made defendants.

ART. 33. If before or after the commencement of the suit, the mark is transferred to another person, the case shall continue to the end against those who have succeeded to the right.

ART. 34. The following shall be punished as provided in Paragraph II, Title III, Book II of the Penal Code:

1. Those who counterfeit or imitate in any way a trade mark.

2. Those who place on the products or articles belonging to their business a mark belonging to another person.

3. Those who knowingly sell, place on sale, offer for sale, or circulate, articles with counterfeited marks or with marks fraudulently applied.

4. Those who knowingly sell, place on sale, or offer for sale, counterfeited marks, and those who sell authentic marks without knowledge of their proprietor.

5. Those who with fraudulent intention place, or cause others to place, on an article of merchandise a false announcement or designation relating to the registration of the mark, or to the nature, quality, quantity, number, weight or measure, of the same article, or the place or country in which it has been made or prepared.

6. Those who knowingly sell, place on sale, or offer for sale merchandise with any of the false announcements mentioned in the preceding item.

ART. 35. The offense shall be deemed committed in full even if the counterfeited trade mark is not affixed to all the objects that are to be marked. Its application to one alone shall be sufficient.

ART. 36. Those who sell or place on sale merchandise with usurped or counterfeited marks in ignorance of the circumstance, shall be bound to give the real owner, when he may ask for it, a complete account in writing of the name and address of the party from whom they obtained the merchandise, as well as the time when the sale began, and in case of resistance they may be compelled judicially under penalty of being considered accomplices.

ART. 37. Articles of merchandise bearing counterfeited marks which may be found in the possession of the counterfeiter or his agents shall be confiscated and sold, and the proceeds of the sale, after paying the costs and indemnities established by this law, shall be turned over to the houses of charity of the locality.

ART. 38. Counterfeited marks found in the possession of the counterfeiter, or his agents, shall be destroyed together with the instruments used to make them.

ART. 39. In order that the Office of Trade Marks shall be duly organized, all merchants, tradesmen, or manufacturers who are now in possession of a mark registered in the Republic shall present themselves within three months at the said office for the express purpose of securing renewal of the registration of their mark.

ART. 40. If before the promulgation of this law two or more businessmen, merchants, or manufacturers have been making use of the same mark, the right to the exclusive use of the same shall belong to the one who proves to have made legitimate use of it prior to all others. If none can prove this priority the ownership shall be granted to the one who has the most money invested therein.

ART. 41. When the registration of the mark has not been made within the time fixed by article 39, nobody shall be permitted to allege the use thereof before the sanction of the present law as a ground for his claim to the right of priority.

ART. 42. In order that foreign trade marks may enjoy the guarantees established by this law, they must be registered in accordance with the treaties made for that purpose. The proprietors of said marks, or their agents duly authorized, are the only persons who may request the registration of the same.

ART. 43. The Director General of Statistics shall take charge

of the organization of the Trade Mark Bureau according to the present law and the regulations that the Department shall promulgate.

CONVENTION BETWEEN GUATEMALA AND FRANCE  
FOR THE PROTECTION OF INDUSTRIAL  
PROPERTY.

[*November 12, 1895.*]

The President of the Republic of Guatemala and the President of the French Republic, equally animated by the desire of adopting by mutual consent certain measures which in their opinion are conducive to the reciprocal protection of industrial property, have decided to conclude a special treaty beneficial to both nations, and have appointed for that purpose as their respective plenipotentiaries:

The President of the Republic of Guatemala, Lic. Don Jorge Munoz, Secretary of Foreign Relations of the Republic; and

The President of the French Republic, Don Casimiro Pablo Challet, Envoy Extraordinary and Minister Plenipotentiary of France in Central America, Officer of the Legion of Honor, etc.,

Who, having communicated to each other their respective full powers and found them in due form, have agreed to the following:

ARTICLE 1. Guatemalan citizens in France and French citizens in Guatemala shall be given in regard to trade marks the same protection which is granted in France or in Guatemala, respectively, to their own citizens. The term trade mark shall be understood to mean: The names of objects or persons written in a special form; the emblems, monograms, engravings, or prints, seals, vignettes, and reliefs; letters and numbers with a special design; boxes or wrappers for articles of merchandise, and in general any sign or designation used to indicate that the products of a factory or the articles of a trade are different and to be distinguished from other articles of the same nature. Commercial names, firm names, names and titles of commercial houses, and names of the places of manufacture or origin shall be included in this definition.

ART. 2. To insure to trade marks the protection stipulated

in the preceding article, Guatemalan citizens in France and French citizens in Guatemala, shall have to comply with the formalities established by the laws and regulations promulgated for this purpose by the high contracting parties. It is to be understood that the trade marks to which the present convention refers are those which in either country are deemed to be lawful, that is to say, that the character of a Guatemalan mark shall be determined according to the standard of the Guatemalan law, and that the character of a French mark shall be likewise determined according to the standard of the French law.

ART. 3. If a trade mark has become public property in the country of origin, it shall not be made the subject of a privilege in the other country.

ART. 4. The present convention shall remain in force for five years, this period to commence two months after its signature. In case that neither of the high contracting parties give official notice to the other one year before the expiration of the said period, of its intention to terminate the convention, it shall remain in force for one year after the expiration of the five years, and so on from year to year until either of the high contracting parties shall give such notice.

In testimony whereof the undersigned have affixed their signatures and seals to the present instrument.

Done in duplicate in the city of Guatemala on the 12th day of November, 1895.

[L. S.]

JORGE MUÑOZ.

[L. S.]

C. CHALLET.

CONVENTION BETWEEN THE UNITED STATES AND  
GUATEMALA FOR THE RECIPROCAL PROTECTION  
OF TRADE MARKS AND TRADE LABELS, CON-  
CLUDED APRIL 15, 1901.

With a view to secure for the manufacturers of the United States of America and those in the Republic of Guatemala the reciprocal protection of their trade marks and trade labels, the undersigned, duly authorized to that effect, have agreed on the following dispositions:

ARTICLE 1. The citizens of each of the high contracting

parties shall in the dominions and possessions of the other have the same rights as belong to native citizens in everything relating to trade marks and trade labels of every kind: *Provided always*, That in the United States the citizens of Guatemala and in Guatemala the citizens of the United States of America should not enjoy these rights to a greater extent or for a longer period of time than in their native country.

ART. II. Any person in either country desiring protection of his trade mark in the dominions of the other, must fulfil the formalities required by the law of the latter; but no person, being a citizen of one of the contracting States, shall be entitled to claim protection in the other by virtue of the provisions of this convention, unless he shall have first secured protection in his own country in accordance with the laws thereof.

ART. III. This arrangement shall go into effect immediately on or after the exchange of the ratifications, and shall be in force until a year after it has been recalled by one or the other of the two high parties.

ART. IV. The present convention shall be ratified by the President of the United States, by and with the consent of the Senate thereof, and by the President of the Republic of Guatemala, and the ratifications shall be exchanged at Guatemala as soon as may be within twelve months from the date hereof.

In witness whereof the undersigned have signed and sealed the present convention in Guatemala City, this fifteenth day of April, one thousand nine hundred and one.

[L. S.]

[L. S.]

W. GODFREY HUNTER.

JUAN BARRIOS M.

CONVENTION BETWEEN GUATEMALA AND THE GERMAN EMPIRE FOR THE PROTECTION OF TRADE MARKS.

[*July, 17, 1899.*]

The Government of the Republic of Guatemala and the Government of the German Empire having agreed to secure to business men residing in the two countries, reciprocal protection for their trade marks, the undersigned, duly authorized for that purpose, have agreed to the following provisions:

ARTICLE 1. Business men residing in Guatemala shall enjoy in Germany and business men residing in Germany shall enjoy in Guatemala, respecting the names of their merchandise, packing, and trade marks, the same protection that is given by Germany or Guatemala, respectively, to their own people, with no other restriction than the obligation to comply with such requisites as may be established by law in either country.

ART. 2. The present convention shall go into effect in each of the contracting countries on the date of its official publication, and it shall remain in force until the expiration of a period of six months, to be counted from the date on which notice is given by the other contracting party of its intention to terminate the arrangement.

In testimony whereof the undersigned have affixed their signatures and seals to the present instrument.

Done in duplicate at the city of Guatemala on the 17th day of July, 1899.

[L. S.]

[L. S.]

F. ANGUIANO.

VON VOIGHTS. RHETZ.

CONVENTION BETWEEN GUATEMALA AND GREAT  
BRITAIN FOR THE PROTECTION OF  
TRADE MARKS.

[*July 20, 1898.*]

Her Majesty the Queen of Great Britain and Ireland, Empress of India, etc., and His Excellency the President of the Republic of Guatemala, being desirous to conclude a convention for the mutual protection of trade marks and designs, have, for the purpose, appointed as their plenipotentiaries, namely: Her Majesty the Queen, etc., George Birt Jenner, esq., her minister resident in Central America, and His Excellency the President of Guatemala, Dr. Francisco Anguiano, Secretary of State for the Department of the Interior and Justice and in charge of that of the Foreign Relations, who, after having mutually communicated their full powers, and found them in good and due form, have agreed to the following articles:

ARTICLE 1. The subjects or citizens of each of the contracting parties shall have, in the dominions and possessions of the other the same rights as are now granted, or may hereafter be granted,

to national subjects or citizens in all that relates to trade marks, industrial designs, and patterns. In order that such rights may be obtained, the formalities required by the laws of the respective countries must be fulfilled.

ART. 2. The stipulations of the present convention shall be applicable to all the colonies and possessions of Her Britannic Majesty, excepting those hereinafter named, that is to say, excepting India, the Dominion of Canada, Newfoundland, the Cape of Good Hope, Natal, New South Wales, Victoria, Queensland, Tasmania, South Australia, Western Australia, and New Zealand: *Provided, however,* That the stipulations of the present convention shall be made applicable to any of the above-named colonies or possessions on whose behalf notice to that effect shall have been given by Her Britannic Majesty's representative to the Minister of Foreign Relations of the Republic of Guatemala within one year from the date of the ratifications of the present convention.

ART. 3. The present convention shall be ratified as soon as possible, and shall remain in force for five years, which will commence to run one month after the exchange of ratifications, which shall take place in the city of Guatemala. Nevertheless, if one year before the expiration of that term neither of the two contracting parties shall have announced to the other, by means of an official declaration, the intention of terminating the present convention, it shall continue in force for one year after such declaration is made.

In testimony whereof, etc., etc.

Done in duplicate in the city of Guatemala on the 20th day of July, 1898.

[L. S.]

[L. S.]

F. ANGUIANO.

G. JENNER.

## HAITI.

### REPORT OF MR. S. ST. JOHN, OF THE BRITISH LEGATION.

I have the honor to acknowledge the receipt of the circular of August 14, 1872, respecting the law and practice of foreign countries with regard to inventions.

On inquiry I find that the Republic of Haiti has no law or practice on the subject, having never yet had occasion to apply either. Should it ever feel the want of such a law, it would probably base its legislation on the French system.

## HONDURAS.

### PATENT LAWS.

Article 90 of the Constitution of Honduras reads as follows:

“ARTICLE 90. Congress shall have power:

\* \* \* \* \*

“16. To award prizes and grant temporary privileges to authors and inventors and those who have introduced or improved new industries of general utility.”

The Patent Law (decree No. 177) promulgated on May 14, 1898, reads as follows:

“The National Congress, considering that it is advisable, in the interest of the general welfare of the country to establish a system of patents of invention, under which the rights of inventors, whether citizens of the Republic or aliens, may be protected, does hereby decree:

“ARTICLE 1. Inventors, when citizens of Honduras, shall enjoy the rights secured to them by the patent for a period not exceeding twenty years. They shall pay an annual tax of not less than 5 and not more than 10 silver dollars, according to the importance of the invention. They shall, furthermore, comply with all the requisites which may be established by the rules of practice to be made on the subject.

“ART. 2. Foreign inventors who have obtained patents outside of Honduras may have their patents validated in Honduras, on the same conditions as the citizens of the Republic, upon the payment of an annual registry fee ranging from 10 to 50 dollars in gold, according to circumstances.

“ART. 3. The Executive power shall enact such rules of practice as may be necessary for the proper execution of this law, and shall also establish a patent office under the supervision of the Department of Fomento.”

The rules of practice referred to in article 3 of the foregoing law have not been as yet promulgated.

The practice in patent cases is to apply to Congress directly, by means of a petition wherein the granting of the patent is requested, and Congress, acting on this subject as in all others under its jurisdiction, grants or refuses the patent.

In cases of validation of foreign patents the applications are made to the Secretary of Fomento, who has the power to grant or refuse it.

### TRADE MARK LAW OF MARCH 7, 1902.

ARTICLE 1. Any sign that determines the specialty for commerce of an industrial product is considered a trade mark.

ART. 2. The form, color, phrases, or designations that do not constitute by themselves the sign determining the specialty of the products, shall not be considered marks. In no case may this sign be contrary to morals.

ART. 3. Any proprietor of a trade mark, whether he be a native or a foreigner, resident in the country, may acquire the exclusive right to use it in the Republic, subjecting himself to the formalities of the present law.

Natives and foreigners residing outside of the country may register property in trade marks when they have in this country an agency or industrial or mercantile establishment for the sale of their products, except when, in the case of foreigners, the treaties otherwise provide.

ART. 4. In order to acquire the exclusive property to a trade mark, the interested party shall present, either himself or by means of his representative, to the Secretary of Fomento, a statement showing that he reserves it according to his right, accompanied with the following documents:

First. The power given to the attorney, if the interested party does not personally appear.

Second. Two copies of the mark or of its representation by means of a drawing or an engraving.

Third. In the case where the mark is put in low or high relief upon the products, or where it presents any other peculiarity, there shall also be remitted two separate sheets in which such peculiarities shall be indicated, either by means of one or various figures or by means of an explanatory description.

Fourth. The written commission contract, by virtue of which the agency may have been established, duly legalized, in the case referred to in the second paragraph of the preceding article.

ART. 5. The application shall set forth the name of the factory, the place where it is located, the domicile of the proprietor,

and the kind of commerce or of industry for which the applicant desires the use of the mark.

ART. 6. The industrial or mercantile mark that belongs to a foreigner not resident in the Republic may not be registered in this country if it shall not have been previously and regularly registered in the country of its origin.

ART. 7. He who first may have made legal use of a mark, is the only one who may claim to acquire its ownership. In case of dispute between two proprietors of the same mark, the property shall belong to the first possessor, and if the possession can not be proven, to the first applicant.

ART. 8. The exclusive ownership of a mark may not be exercised except by virtue of the declaration made by the Secretary of Fomento to the effect that the interested party has reserved his rights after having fulfilled all the legal requisites.

ART. 9. The declaration to which the previous article refers shall be made without previous examination under the exclusive responsibility of the applicant, and without prejudice to the rights of third parties. The Secretary of Fomento shall publish the application of the interested party, and in case of opposition presented within ninety days following the publication shall not proceed to the registration of a mark until the judicial authority decides in favor of whom the registration must be made.

ART. 10. Trade marks can not be transmitted except with the establishment for whose objects of fabrication or of commerce they serve as distinction; but their transfer shall not be subject to any special formality, and shall be made according to the rules of ordinary law.

ART. 11. The duration of the ownership of a trade mark is indefinite; but it shall be considered abandoned by the closing for more than a year of the establishment, factory, or business in which it may have been employed or the failure of the owner to produce the article during the same period.

ART. 12. The trade marks deposited will be cared for in the Department of Fomento, where any person wishing to do so, may examine the register and obtain, at his own cost, a certified copy of the same.

ART. 13. The ownership of a mark obtained in contravention

to the preceding prescriptions shall be judicially declared null on the petition of an interested party.

ART. 14. A certified copy of the final decision annulling or extinguishing the property of a mark, shall be forwarded to the Secretary of Fomento by the judge who has had cognizance of the matter.

ART. 15. The crime of counterfeiting shall be committed:

First. When trade marks are used that are exact and complete copies of another the ownership of which is already secured.

Second. When the imitation is such as to produce almost complete identity, the difference being only of minor character, the mark may be susceptible of being confounded with another legally deposited.

ART. 16. There shall be considered as guilty of the crime of counterfeiting, whatever may be the place where it may have been committed, those who may have counterfeited a mark, or made use of a counterfeited one, whenever it is applied to objects of the same industrial or mercantile nature.

ART. 17. Those guilty of counterfeiting trade marks are subject to the penalties established in the Penal and Common Code.

ART. 18. Drawings and industrial models are included in the provisions of this law.

ART. 19. The protection that the present law grants to industrial or mercantile marks does not extend to the goods covered by them, except as to those made and sold in the country.

ART. 20. The present law shall commence to go into effect from the date of its publication, and the applications now pending shall be decided according to its provisions.

Given at Tegucigalpa, in the Hall of Sessions, the 7th day of the month of May, 1902.

## MEXICO.

## PATENT LAW.

(August 25, 1903.)

PORFIRIO DIAZ, Constitutional President of the United States of Mexico, to the inhabitants thereof, know ye:

That by virtue of the authorization granted to the Chief Executive of the Union by decree of Congress of May 28 of the present year, for amending the patent, trade-mark, and other laws on industrial property now in force, I have seen fit to issue the following

## PATENT LAW.

## CHAPTER I.

*Concerning patents.*

ARTICLE 1. Anyone who has made any new invention of an industrial character may acquire the exclusive right, by virtue of the provisions of articles 28 and 85 of the Constitution, to exploit or work said invention for his benefit, during a certain term, under the rules and conditions prescribed by this law. In order to acquire this right it is necessary to obtain a patent of invention.

ART. 2. The following are patentable:

I. A new industrial product.  
II. The application of new means in order to obtain an industrial product or result.

III. The new application of known means in order to obtain an industrial product or result.

ART. 3. The following are not patentable:

I. A discovery or invention that simply consists in making known or rendering evident something which had already existed in nature, although it had been unknown to man before the invention.

II. Every scientific principle or discovery of a purely speculative character.

III. Every invention or discovery the exploitation of which may be contrary to the laws prohibiting same, to public safety or health, and to good customs or morals.

IV. Chemical products; but the new processes to obtain said products, or their new industrial application, shall be patentable.

ART. 4. An invention shall not be considered as new whenever it has been put in practice, in the country or abroad, before the application of a patent, for a commercial or industrial purpose, or when it has been so extensively published as to enable the same to be put in practice, inasmuch as in such cases it shall be regarded as public property.

ART. 5. In the following cases the provision contained in the preceding article shall not apply to the author of the invention in question or to the owner of the corresponding patent obtained abroad:

I. When the publicity is derived from the exhibition of the invention in a local, State, or international exposition, officially or unofficially recognized, provided always that before its exhibition the document prescribed by the regulations shall be deposited in the Patent Office and that the proper application shall be filed in said office before three months shall have elapsed after the official closing of said exposition.

II. When the owner of a foreign patent shall file his application for a Mexican patent to be issued within a period of three months, counting from the date on which, in accordance with the law of the country in which said foreign patent was issued, the corresponding invention shall be made public.

In case there are two or more foreign patents, the term of three months shall be counted in accordance with the patent which was first published.

III. Whenever the application shall be filed within the terms specified by the international treaties relating to the matter or within the twelve months to which article 12 refers.

In case two or more of the kinds of publicity to which reference is made in this article should coincide and that on making the respective computation the terms should not expire on the same day, the interested party shall be obliged to file his application during the term which shall first expire.

The terms mentioned in Section III shall prevail over the

others, and therefore, in case they should coincide with the other terms, the party in interest shall enjoy them to their fullest extent, even though they be longer terms.

ART. 6. The owner of a patent shall have the exclusive right:

I. To exploit or work the same, for his benefit, during the time fixed by this law, either by himself or through other persons with his consent.

II. To prosecute before the courts those who infringe his right, either because of the industrial manufacture of the patented article, or by the industrial employment or use of the patented process or method, or because they may keep in their possession or offer for sale, sell, or introduce for a commercial purpose in the national territory, without his consent, one or more manufactured articles.

In the case of industrial manufacture the intent to defraud shall not be necessary in order to incur in a penal offense, although said fraudulent intent must exist in the other cases provided for in said Section II.

ART. 7. Notwithstanding the provisions of the foregoing article, the patent shall produce no effect whatever:

I. Against similar articles that may, in transit, pass through the national territory or tarry in its territorial waters.

II. Against a third party who was already exploiting the same patented article in the country prior to the date on which the application for the patent was filed or on which he had made the necessary arrangements to exploit it.

III. Against a third party who, for the purpose of making experiments or investigations, should construct an article or put in practice a process equal, or substantially equal, to the patented one.

ART. 8. A patent may be granted to two or more persons jointly should it be jointly applied for.

## CHAPTER II.

### *Concerning the application and granting of patents.*

ART. 9. Any person desiring to obtain a patent shall file at the Patent Office an application, which shall be accompanied with the following documents:

- I. A specification.
- II. A set of claims.
- III. A drawing or drawings, should the case require it, at the discretion of the inventor.
- IV. Two copies of the above documents.

ART. 10. The Patent Office shall simply make an official examination of the documents filed in order to determine if they are complete and whether they comply with the requisites prescribed by the proper regulations concerning the form thereof.

Consequently said examination shall not, for any reason whatever, be made with regard to the novelty or usefulness of the article sought to be patented, nor with regard to the sufficiency, clearness, or accuracy of said documents.

If the Patent Office finds that said documents do not comply with the requirements, the examination of which it is the duty of said office to make, or that the article or thing sought to be patented is comprised in the provisions of article 3, Section III, it shall regard said documents as not having been filed and shall make known this fact to the party in interest by means of a notice. If the interested party is not satisfied, he may appeal to the courts in accordance with the provisions of Chapter XII of this law.

Should the Patent Office be satisfied with the regularity of the documents filed, it shall so advise the interested party by means of a notice.

ART. 11. The legal date of a patent is that of the legal filing in the Patent Office of the application and documents which constitute the same; and from that date the patent is supposed to be granted and produces its legal effects, except in the case specified in the following article:

In the case referred to in Section I, article 5, the legal date of the patent shall be that on which the application referred to in said section was filed.

ART. 12. The legal date of a patent solicited in Mexico, and which has already been applied for by the same person in one or more foreign countries, shall be that which corresponds to the foreign patent first solicited, provided that it be applied for in Mexico within twelve months, counting from the date of the first application of patent made abroad, if it is a patent of invention, and within four months from the same-

date, if the application is by means of an industrial design or model, and provided also that the foreign country in which it was first applied for grants to Mexican citizens this same right.

Consequently every patent applied for in Mexico, under these conditions, shall have exactly the same force and produce the same effects as if it had been applied for on the day and hour of said legal date.

ART. 13. Patents shall be granted without prejudice to third parties and without guaranteeing their novelty or utility. The concession thereof only gives a presumption of said qualities and of the rights of the owner until the contrary is proven.

ART. 14. He who, without being the author of an invention, applies for the respective patent should prove his authority as representative or attorney of the inventor. In order to prove his authority as representative or attorney, a letter of authorization, signed by the inventor or author of the invention and two witnesses, shall be sufficient; but the Patent Office shall have the right to demand the ratification of the signatures whenever it should deem it convenient to do so.

### CHAPTER III.

#### *Concerning terms and fiscal dues.*

ART. 15. Patents of invention are granted for a term of twenty years, counting from their legal date.

ART. 16. This term is divided into two, namely, the first term consisting of one year and the second of nineteen years.

ART. 17. The tax for the first period one-year term is five pesos.

The tax for the second term, that is to say, the remaining nineteen years, is thirty-five pesos.

The regulations shall fix the Government fees caused by the issuance of copies, certified copies, renewal of title deeds, etc., etc. The payment of all these fees shall be made necessarily in revenue stamps of the Federal Government in the manner prescribed by the same regulations.

ART. 18. The term fixed by article 15 may be extended five years at the discretion of the Chief Executive, and after the

payment of the additional fees which said Chief Executive may deem proper to fix.

Anyone desirous of obtaining the concession to which this article refers shall file an application with the Patent Office within the first six months of the last year of the ordinary term of twenty years.

Said applicant shall also prove that the patent has been in uninterrupted industrial exploitation in the national territory at least during the last two years immediately preceding the date of the respective application.

#### CHAPTER IV.

##### *Concerning exploitation.*

ART. 19. The exploitation of a patent is not obligatory, but if after three years from the legal date thereof said patent should not be industrially exploited within the national territory, or if after these three years the exploitation of the same shall have been suspended for more than three consecutive months, the Patent Office shall have the right to grant to third parties a license to make said exploitation in the manner provided for in the following articles:

ART. 20. Any person wishing to obtain a license like those mentioned in the preceding article, shall apply at the Patent Office, stating the reasons and grounds upon which he bases his petition. This petition shall be made known to the owner of the patent, fixing the term of three months, which cannot be extended, in order that both interested parties shall present to the office the proofs they may deem convenient. Within this same term the office shall have the right to ask for information, to appoint inspectors, and to do in general everything which, without exceeding its authority, it may deem convenient to do in order to satisfy itself of the truthfulness of the facts.

ART. 21. Whenever the owner of the patent in question shall not prove that he has commenced to industrially exploit the subject-matter of the same in accordance with the provisions of article 30, none of his proofs shall be accepted; but without further formalities, and dispensing with the probatory term

described in the previous article, the applicant shall be granted the license applied for.

ART. 22. Within the term of fifteen days after the expiration of that fixed by article 20 in which to present proofs, or within eight days from the filing of the application for the license in the case of the foregoing article, the Patent Office shall decide whether the license applied for shall be granted or not.

The interested party who is not satisfied with this decision shall have the right to appeal to any of the judges of the district of the City of Mexico, requesting the repeal of said decision, the former acting as plaintiff and the latter as defendant, the plaintiff being bound to bring his respective suit within the term of eight days, which can not be extended, counting from the date in which the administrative decision shall be made known to him, with the understanding that should he fail to do so, he shall be considered as deprived of said right of appeal and as having accepted said decision.

This suit brought before said judge in said cases shall be subject to the provisions of the present law.

ART. 23. The effects of the administrative ruling granting the license applied for shall not be suspended because of the appeal of the owner of the patent to the judicial authority, and consequently he who has obtained the license has the right to exploit the patent at once without being compelled to give bond or comply with any other requisite.

ART. 24. Whoever has obtained a license similar to those in question shall be bound to commence to exploit the patent within the term of two months, counting from the date of the respective decision if the latter was made by the Patent Office, or from the date of the legal notification thereof if it was made by the judicial authority, and not to suspend said exploitation longer than two consecutive months.

ART. 25. One-half of the net profits obtained by the owner of the license as a result of the respective exploitation shall belong to the patentee, and he shall therefore have the right to superintend the exploitation and, to judicially demand whenever proper to do so, the delivery of the aforesaid one-half of the net profits. The provisions of this article are

without prejudice to the agreement or agreements which the interested parties themselves are at liberty to make.

ART. 26. In case the owner of the patent should be absent or fails to enforce his rights, the owner of the license is bound to deposit every two months one-half of the net profits mentioned in the previous article in the bank or banking house designated by the Patent Office for that purpose, and shall also keep said Patent Office informed of the proceeds of the exploitation, as well as of the net profits, by means of bi-monthly reports.

The noncompliance with the provisions of this article shall cause the Patent Office to revoke, without further formalities, upon the request of the owner of the patent, the license granted.

The respective notices shall be published in the "Official Patent Gazette," and if the person whose duty it is to give these notices should make any false statement therein to the Patent Office, he shall be subject to imprisonment and to a fine, or to either of said penalties, at the discretion of the judge, and in all events said person shall be held responsible for the losses and damages which he may cause to the owner of the patent.

ART. 27. The licenses granted by the Patent Office, in accordance with the preceding articles, do not deprive the owner of the patent of the right of exploiting by himself his invention nor of granting any licenses he may be willing to grant.

ART. 28. The owner of the patent has the right to demand the repeal of a license granted by the Patent Office, when two years after the granting of said license the owner of the patent or any other person representing him should be already industrially exploiting the same.

In order that the respective application may be taken into consideration, it is an essential requisite that the owner of the patent shall have proved to the satisfaction of the Patent Office, in accordance with the provisions of article 30, that the exploitation has been commenced, or else the application shall be rejected without further formalities, and there shall be no appeal from this decision.

It shall also be an essential requisite, in order that the owner of the license be allowed to produce proofs of having begun the exploitation within the term of two months fixed by the

law, that he should have forwarded, in due time, to the Patent Office the voucher to which reference is made in said article 30.

On the other hand, the procedure, in order to carry out the repeal referred to in the first paragraph of this article, shall be subject to the provisions of articles 20, 21, 22, and 23, in so far as they are applicable.

ART. 29. The owner of a patent has the right to prosecute before the courts as an usurper of his patent or as an illegal exploiter thereof, the owner of a license granted by the Patent Office who had not commenced the exploitation within the term of two months fixed by article 24, or who had suspended the exploitation during a period exceeding two consecutive months, and who, notwithstanding said fact, had been exploiting said patent, except when said suspension of the exploitation had been caused by accident or by superior force.

ART. 30. Both the owner of the patent and the person to whom the Patent Office shall have granted a license to exploit the same, are bound, as soon as they have commenced the exploitation of the patent, to prove said fact, through any legal means, to said Patent Office, within a term which shall not exceed fifteen days.

ART. 31. All the products that are protected by a patent shall bear a mark which shall indicate the fact that the article is patented, as well as the number and the date of the patent.

## CHAPTER V.

### *Concerning the title deed and seal.*

ART. 32. Patents shall be issued in the name of the President of the Republic, by the Patent Office, and shall be signed by the Secretary of Fomento. In said patents shall be stated—

The number of the patent;

The name of the person or persons to whom the same is granted;

The term of the patent;

The article for which it has been granted;

Its legal date and the date of its issuance;

And to the patents shall be affixed the special seal of the Patent Office.

The patent, together with a copy of the specification, the claims, and drawings, should there be any, shall constitute the title deed which shall prove the rights of the patentee.

ART. 33. The patent protects only what is contained in the claims, the specifications and drawings, if there should be any, serving only to explain what said claims contain.

ART. 34. There shall be at the Patent Office a special seal which shall be used to legalize the patents.

## CHAPTER VI.

### *Concerning the official publication.*

ART. 35. The Patent Office shall publish in the "Gaceta Oficial de Patentes y Marcas" (Official Gazette of Patents and Trade Marks) at least every two months, a list of the patents granted, and shall publish at least annually a special book which shall contain the claims and one or more drawings of each patent.

## CHAPTER VII.

### *Concerning the examination.*

ART. 36. The Patent Office shall, upon request of the interested parties concerning the novelty of a patent applied for, make an examination without guaranty. Said Patent Office shall report in writing the result of this examination.

This examination may also be made upon the request of any person for the purpose of ascertaining whether the article which is sought to be patented has already been patented or whether it has become public property in Mexico.

In order to obtain this examination the applicant shall proceed in the manner prescribed by the regulations of this law.

## CHAPTER VIII.

### *Concerning the transfer of patent rights.*

ART. 37. The rights acquired by virtue of a patent may be transferred, in whole or in part, by any of the legal means established by law, as is done in the case of any other right,

but no transfer or any other act which implies a modification of said rights shall injure a third party, unless it has been recorded in the Patent Office.

The regulations shall fix the fee to be paid for this registration, which shall not exceed twenty pesos.

## CHAPTER IX.

### *Concerning expropriation.*

ART. 38. A patent of invention may be expropriated by the Federal Executive on the ground of public utilities by causing the respective invention to become at once public property, after the proper indemnification, subjecting the same, in so far as may be proper, to the same requisites which are established by the laws in force on the matter in case of the expropriation of real estate.

In the case of the invention of a new weapon, instrument of war, explosive, or, in general, of any improvements in machines or munitions of war which may be applied to the national defense, and which, in the opinion of the Chief Executive, should be kept as a secret of war, and that therefore it should only be used by the National Government, the said expropriation, upon being carried out with the same formalities established in the preceding paragraph, shall comprise not only the respective patent, but also the invention, even though it may not have yet been patented, and in such case said invention shall not become public property, but shall become the exclusive property of the Government, as well as the corresponding patent, as the case may be.

ART. 39. The Patent Office shall not make public any expropriated patent, from the date in which it has been so expropriated, in the cases referred to in the second paragraph of the preceding article.

## CHAPTER X.

### *Concerning forfeiture and annulment of patents.*

ART. 40. Patents shall be considered void—

I. At the expiration of one year referred to in article 16, if

before the expiration thereof the fees of the second payment have not been paid.

II. Upon the expiration of the second term mentioned in Art. 16.

III. Upon the expiration of the term of the extension of time, when an extension has been granted.

ART. 41. The Patent Office shall publish in the "Official Gazette" the name and number of each one of the patents which have become void.

ART. 42. Patents are void—

I. Whenever they are in contravention of the provisions of articles 3, 4, 5, and 102.

II. When the claims are not sufficiently clear and explicit, thereby rendering it difficult or impossible to determine what is claimed as new.

III. When there is not sufficient clearness and precision in the specification and drawings so that, in the opinion of the expert, said specification and drawings are not sufficient, taken as a whole, to construct or produce what they purport to describe.

IV. Whenever the object attained by virtue of the patent differs from that sought to be obtained.

V. Whenever another like patent has been previously granted, in the country or abroad, though the same has been declared void.

ART. 43. A patent can only be annulled by the judicial authority, and then only by reason of any of the causes enumerated in the preceding article.

ART. 44. The right to take action for the annulment of patents appertains to anyone who considers himself aggrieved thereby, and to the Federal Attorney-General in cases in which the Federation has an interest.

ART. 45. The District Judges of the capital of the Republic have jurisdiction in actions of nullity of patents, except as provided in articles 46 and 62.

Whenever the jurisdiction is within the province of the District Judges, the procedure established in Chapter XIII shall be followed.

ART. 46. Both nullity and forfeiture may be pleaded as a

defense, and then the same judge before whom the proper action had been brought shall have jurisdiction over them.

ART. 47. The final decision, declaring the nullity of a patent, shall be communicated by the court or judge that rendered it to the Patent and Trade Mark Office, and the latter shall order the same to be published in the "Official Journal" (Diario Oficial) and in the "Patent Gazette" (Gaceta de Patentes), and shall record it in the Patent Register, duly entering all the inscriptions relating to said patent.

## CHAPTER XI.

*Concerning the penal and civil responsibility incurred by those who infringe the rights acquired by virtue of a patent.*

ART. 48. The industrial manufacture of articles protected by a patent, and the employment, for a commercial or industrial purpose, of methods which are also protected by a patent, without the consent of the owner of the respective patent, shall be punished with a fine of from five hundred to two thousand pesos and with imprisonment of from one to three years, or either of these penalties, at the discretion of the judge.

ART. 49. The fraudulent use, with a commercial or industrial purpose, of articles protected by a patent shall be punished by a fine of from fifty to one thousand pesos and imprisonment of from six months to two years, or with only one of said penalties, at the discretion of the judge.

ART. 50. It is the duty of the defendant to prove that the manufacture is not industrial and that the use is not commercial or industrial.

ART. 51. A fine of from five to five hundred pesos and imprisonment, or either of these penalties, at the discretion of the judge, shall be imposed on whoever shall fraudulently—

I. Sell, offer for sale, or put in circulation articles protected by a patent and manufactured without the consent of the patentee.

II. Import, for an industrial or commercial purpose, articles protected entirely or in part by a patent, without the consent of the patentee.

III. Sell, or offer for sale, or put in circulation, any prod-

ucts secured by means of methods which are protected by a patent, without the consent of the patentee.

ART. 52. Any fraudulent act which is not comprised among those enumerated in the foregoing articles that in any manner restricts, interferes, or prevents the legitimate exercise of the rights granted to the owner of a patent by this law, shall be punished with a fine of from five to five hundred pesos and with imprisonment, or with either of these penalties, at the discretion of the judge.

ART. 53. In case of the repetition of the infringement, the first time the penalty shall be increased by one-half of those already prescribed, and upon every repetition of the offense said penalty shall successively be increased by one-half.

A repeater of the infringement is anyone who has committed the new offense of which he is accused before five years shall have elapsed since the final decision declaring him guilty of any of the offenses named in this law, even though the prior offenses related to another patent different from that to which the new offense refers.

ART. 54. Whenever an offense or fault is committed not mentioned in this law, and the penalty of which is fixed in the Penal Code of the Federal District, as well as everything relating to the general rules concerning offenses and faults, the degrees of the premeditated offenses, accumulation, application of the penalty, criminal and civil responsibility, provided that there is not a special provision concerning such matters in the present law, the rules of the said Penal Code shall be followed, the provisions of which, in the cases of patents of invention, are declared obligatory throughout the Republic.

ART. 55. The criminal action for the purpose of prosecuting the persons guilty of the offenses to which this law refers can not be commenced or proceeded with, except by virtue of a complaint and motion of the owner of the respective patent, and it shall also be an essential requisite, in order to punish the guilty party, that the articles protected by the patent in question, or the wrappers containing the same, bear a mark that shall indicate that the article is patented and also the number and date of the patent.

No penal responsibility shall be incurred by anyone who makes use of inventions which, according to the opinion pre-

viously expressed by the Patent Office, have become public property.

Nor shall said penal responsibility be incurred by anyone who, under the protection of a patent, makes use of inventions or processes which, according to the opinion previously expressed by the Patent Office, were new when the patent was applied for.

ART. 56. The infringers, in addition to the penalty prescribed by article 48 and subsequent articles, shall lose all the articles illegally manufactured and the appliances and instruments specially destined for the manufacture thereof, all of which shall be awarded to the owner of the patent. In case some of the articles have already been sold, the guilty party shall be sentenced to pay to the owner of the patent an amount equivalent to the value of said products.

ART. 57. The owner of a patent shall also have the right to demand from the infringers of his patent the payment of losses and damages, and the respective action should be brought before the local or Federal judge, as the case may be. The owner also may bring suit, as a separate case, in a criminal action, in accordance with the provisions of the articles relating to the present law concerning the judicial procedure governing this matter.

ART. 58. Civil actions shall be brought and carried on in accordance with the provisions of Chapter XIII of this law.

ART. 59. The plaintiff shall have the right to request the judge to insure the articles illegally manufactured, as well as the appliances and instruments destined especially for the manufacture thereof, and to appoint, under his own responsibility, a receiver of said articles; but in order to exercise this right the following shall be essential requisites:

I. That the respective patent be filed, together with the opinion of the Patent Office that the invention was new at the time the patent was applied for.

II. The verification, by means of the corresponding title duly recorded in the Patent Office, that the plaintiff is the present owner of the patent.

III. The verification, by any legal means, that the illegitimate manufacture or exploitation which serves as a basis of the action really exists.

The fact that the articles illegally manufactured are the same, or essentially the same, as those which are protected by the patent shall be proven precisely by means of the report of experts, which shall be signed by three experts, who shall ratify, under oath, their report before the judge.

IV. To prove by any legal means that the articles protected by the patent in question bear the mark of being patented and indicate the number and date of the respective patent, or, if the article should not be adapted to bear said marks, to show that the mark of the patent and its number and date have been placed on the boxes or covers containing said articles on being sold to the public.

V. That a sufficient guaranty be given at the discretion of the judge.

During the continuance of the respective action the plaintiff shall also have the right to demand the insurance or guaranty mentioned in this article, provided that all the specified requisites be complied with.

ART. 60. In the same cases and with the same requisites established in the preceding article, the plaintiff shall have the right, whenever it should be proper to do so, to request that the employment of patented methods or processes be forbidden, and then the judge shall notify the defendant to abstain from using them until further ordered. In this case the requisite mentioned in Section IV of the aforesaid preceding article shall not be necessary.

If the person notified should not comply with the order he shall be compelled to do so in accordance with the law, and if necessary he shall be ordered to close the respective factory or shop during the time that may be deemed necessary.

ART. 61. The measures referred to in the two preceding articles, and the preliminary steps that may be taken to justify them, shall be issued without the presence of the party against whom they are taken, and under the exclusive responsibility of the person or party who requests them, who shall be bound to make the payment of the losses and damages that on this account may be caused to the defendant, whether he brings the proper penal or civil action within the fifteen days following the date on which the guaranty or insurance is made, or of the insurance of the order for the respective prohibition, or be-

cause the defendant was absolved, or because of the action being suspended.

In such cases the guaranty referred to in article 59 shall be immediately released, or the prohibition of employing the patented method or process to which article 60 refers shall be revoked.

ART. 62. The judge having jurisdiction of the offenses referred to in the preceding article shall also decide as to the nullity, forfeiture, or ownership of the patent when the latter are set forth as a defense against the proper penal action, and the respective sentence shall be communicated to the Patent Office.

ART. 63. Any person who marks his product as patented without it really being so, shall be punished with a fine of from fifty to one thousand pesos and with imprisonment, or with either of said penalties.

The action for the purpose of prosecuting this offense may be brought at the request of the interested party or of the Public Prosecutor, and both this action and the penalties to which this article refers shall be at all events officially prosecuted once they have been commenced.

ART. 64. It devolves on the Federal courts to take cognizance of the litigations or differences which may arise on account of the present law in the following cases:

In case of the validity or nullity of the patent, or when it is maintained that the Chief Executive had no power to issue the patent, or that he issued it without the legal requisites;

II. Whenever articles, processes, or methods which are not patented are advertised as having been patented;

III. When the patent is the property of the nation;

IV. In any other case in which the State is an interested party, or when the Federal interests are affected; and

V. Whenever an attempt is made to repeal the acts or decisions of the Patent office.

In the cases mentioned in Sections I, II, and V, the district judges of the City of Mexico shall have jurisdiction.

It shall devolve on the district judges to whose jurisdiction the residence of the defendant belongs to take cognizance of the cases referred to in Sections III and IV, if it is a civil

action, and at the place where the offense was committed, if it is a penal action.

ART. 65. The proper judges, in accordance with the law, shall take cognizance of and decide the criminal and civil actions which may arise on account of the application of this law, but only when private interests are affected.

ART. 66. The provisions of the preceding articles do not prevent the compliance with articles 46 and 62 of this law, whenever said provisions are applicable.

## CHAPTER XII.

*Procedure in order to obtain the repeal of the administrative decisions.*

ART. 67. Whenever the interested parties are not satisfied with the administrative decisions of the Department of Fomento or with those of the Patent Office, they may appeal, within fifteen days after having been notified of the decision, to any of the district judges of the City of Mexico, stating the reasons they have for not being satisfied therewith.

ART. 68. If the interested party has not appealed after the expiration of the term referred to in the preceding article, the administrative decision shall prevail.

ART. 69. The claim shall be made by filing a written document and a simple copy thereof, which shall be verified by the court.

Said copy of the appeal shall be forwarded within twenty-four hours to the Patent Office, in order that the latter may report thereon within eight days.

ART. 70. As soon as the aforesaid report is received, a copy of the same and of the claim shall be forwarded to the public prosecutor, in whose hands it shall remain during three days, in order that he may make out his petition in his capacity as a defendant in behalf of the Department of Fomento.

If the presentation of proofs should be necessary, a term shall be fixed which shall not exceed ten days, at the end of which a summons shall be made within three days, at the latest, for a hearing, at which the judge shall take cognizance of the arguments of the interested parties and shall decide within five days, with or without the attendance of the interested parties.

The interested parties shall have the right to appeal from the above decision in both instances, and the appeal shall be made within the term of five days, which shall not be extended.

ART. 72. In case the interested party should appeal from this decision, the proceedings shall be forwarded at once to the proper circuit court, which only at one hearing, to which said court shall summon within five days at the latest, shall, within a further term of five days, render a decision, forwarding a copy thereof to the Patent Office, in order that it may have its due effect.

ART. 73. A copy of the final decision shall be sent to the court, the determination of which is under consideration.

ART. 74. If the decision should declare unfounded the objection of the interested parties to the administrative ruling, a fine of from five to twenty-five pesos shall be imposed upon the interested party.

### CHAPTER XIII.

#### *Procedure in civil actions.*

ART. 75. Civil actions arising out of the present law shall be conducted and decided at once by means of the procedure stated below, with the exception of the provisions of the preceding chapter and the provisions that may be prescribed for criminal actions.

ART. 76. The term in which to answer the suit shall be five days.

ART. 77. No preliminary question shall be admitted unless it refers to the legal capacity of the parties or to the jurisdiction of the judge.

ART. 78. Both the lack of legal capacity and the lack of jurisdiction shall be set forth as late as three days before the term granted for answering the petition.

ART. 79. Once the question of lack of capacity is raised, the discussion thereof shall take place at the same proceedings, and the result shall be made known to the other party within three days.

ART. 80. If any of the interested parties should ask for evidence, the judge shall fix the term in which to present the same, which in no case shall exceed ten days.

ART. 81. Once the proofs are presented, the judge shall summons the interested parties to a hearing, which shall take place within three days, in order that said interested parties may set forth at said hearing whatever may be best in support of their right.

ART. 82. The summons to said hearing shall serve as a summons for the final decision that the judge shall render within three days, whether the interested parties have attended the hearing or not.

ART. 83. In case no proofs have been asked for, the judge shall decide simply by virtue of the hearing.

ART. 84. Once the question of lack of jurisdiction is raised, it shall be thoroughly discussed in accordance with the provisions of the Federal or local codes of civil procedure, as the case may be.

ART. 85. Peremptory pleas shall be made on answering the suit, and shall be decided together with the principal question.

ART. 86. The compensation and the charge shall not be permitted, except when the action upon which they are based is also subject to summary proceedings.

ART. 87. The term in which to present the proofs concerning the main question shall be twenty days, which may be extended for a period of fifteen days, at the discretion of the judge, and within said period the objections to the witnesses and instruments shall be set forth and proved.

ART. 88. In case some of the interested parties should object to a document that may be of notorious influence in the suit, the question shall be continued by a separate cause without suspending the proceedings, but no final decision shall be rendered concerning the principal point, except when the question is settled by virtue of a decision producing the final sentence.

ART. 89. If it should be alleged that one of the documents is false, the judge who has jurisdiction in the proceedings shall cause said document to be taken out, leaving a certified copy in its place, and shall send said document to the judge of the criminal court or to the judge of the district court, as may be proper, and he shall sign the same, together with the secretary or the witnesses in attendance, as the case may be.

If the judge who takes cognizance of the principal action exercises a combined jurisdiction, he shall cause the document

to be taken out of the proceedings, conducting by a separate proceeding the proper criminal action.

ART. 90. In the first case, before the transfer to the proper judge is made and before commencing the criminal action in the second case of the same article, the party who has filed the document alleged to be false shall be requested to state whether he pretends that the same shall be taken into consideration or not. If he should insist in rendering it valid, the action shall be suspended in whatever stage it may be until a final decision is rendered on the question of falsity; and if the party should not insist on said document being taken into consideration, the same shall be sent to the proper judge or the operation of taking off the document shall be effected in order to begin the respective criminal proceedings without suspending the course of the civil proceedings.

ART. 91. Once the term for the presentation of proofs or the extension of time, as the case may be, has expired, the proofs shall at once be ordered published, each of the parties having access to the proceedings during three days in order to enable them to make their allegations in a hearing which shall take place three days afterwards, at the latest.

ART. 92. At the end of said hearing a summon shall be made in order to render the final decision, which shall be given within the following five days.

ART. 93. The appeals taken against the rulings and decisions rendered in this class of cases do not suspend the execution of the same.

In said proceedings the appeal shall be made within three days, which term can not be extended, and in case of decision, said appeal shall be made within the term of five days, which likewise can not be extended.

#### CHAPTER XIV.

##### *Procedure to be followed in criminal actions.*

ART. 94. Criminal actions brought in accordance with the present law, if they are brought before the Federal judges, whenever they have jurisdiction, shall be discussed as other criminal actions are discussed at present, until the Code of Federal Procedure on criminal practice is issued.

ART. 95. When the same actions have to be brought before the local judges of the Federal district of the States or Territories, in accordance with article 97 of the Constitution and the present law, the procedure shall be that which is in force in accordance with the laws of each of said States or Territories.

ART. 96. The civil action incident to the criminal action established by this law, may be conducted at the same time and before the same court which takes cognizance of the criminal action; but if the civil action should reach the stage of a decision before the criminal action is finished, the civil case shall be suspended until the criminal action is in the same stage, in order that both actions may be disposed of in the same decision.

ART. 97. If the civil action is not ready for decision, and consequently, would not be decided at the same time as the criminal action, the judge of the civil court selected by the plaintiff shall afterwards take cognizance thereof, unless the judge who had taken cognizance of the criminal action exercises a combined jurisdiction.

ART. 98. The civil action shall be commenced and continued separately before the proper court—

I. Whenever an irrevocable decision has been rendered in the criminal action without having commenced in due time the civil action in the criminal proceedings.

II. Whenever the defendant has died before instituting the criminal action.

III. Whenever the criminal action has expired by limitation and the civil action is still in existence.

ART. 99. Whenever the interested party has initiated the action on account of a civil responsibility in the criminal action, the question shall be discussed in accordance with article 76 and following ones.

ART. 100. If the criminal action is brought before the local courts, the question concerning civil responsibility shall be discussed as provided for in the respective local law.

## CHAPTER XV.

### *Concerning publication and museum.*

ART. 101. The Patent Office shall publish a newspaper entitled the "Official Gazette of the Office of Patents and Trade

Marks," in which paper shall be published the patents and trade marks granted, as well as everything else relating to them. Besides, it shall publish the indexes, reports, and other publications relating to the subject.

A public museum shall be established in order that there may be deposited therein all the samples of apparatus, plans, designs, drawings, specifications, products, and appliances relating to the patents of inventions issued.

## CHAPTER XVI.

### *Concerning patents by industrial samples or drawings.*

#### ART. 102. Is patentable:

Every new form of an industrial product, piece of machinery, tool, statue, bust, high or low relief which, either by its new artistic arrangement or by the new arrangement of the material, constitute a new and original industrial product. Any new drawings used for the purpose of industrial ornamentation, in any substance, and arranged thereon by printing, painting, embroidering, knitting, sewing, moulding, casting, engraving, mosaïc, inlaying, embossing, discoloration, or any mechanical, physical, or chemical means, in such manner as to give to the industrial products used in the drawings a peculiar and becoming appearance, shall also be patentable.

ART. 103. Whenever a patent is applied for by means of an industrial sample or drawing, a sample or model shall be sent to the Patent Office, in addition to the papers or documents specified in article 9 of this law and those specified in the regulations of the same law.

In case the drawing or drawings illustrating the drawing or model sought to be patented are difficult to copy, the Patent Office may accept photo-engravings or photographs. It shall also be able to dispense with the model or sample when the execution of the same is difficult and when the drawings are sufficient to give an accurate and precise idea of the invention.

ART. 104. Patents applied for by means of industrial drawings and models shall be granted for a term of five or ten years, at the option of the applicant. These terms can not be extended.

ART. 105. The fees charged for patents applied for by means of industrial drawings or models are the following:

I. For five years, five pesos.

II. For ten years, ten pesos.

The above fees shall be paid in Federal revenue stamps in the manner prescribed by the regulations.

ART. 106. Patents applied for by means of industrial drawings or models lapse when the term for which they were granted expires.

ART. 107. All the provisions relating to patents of invention are applicable to those of industrial models and drawings, except as provided in articles 3, 15, 16, 17, and 18.

## CHAPTER XVII.

### *Transitory articles.*

ART. 108. This law shall go into force on the first of October of the present year.

ART. 109. Those who have applied for a patent before this date, and who have not yet been requested to pay the proper fees in order that the respective title be issued in their favor, shall have the term of one month, counting from the same date in which the law was declared in force, to make known to the Patent Office whether they wished the patent to be issued, taking as a basis the application and documents which they have filed, or whether they want to amend both the application and the documents, as to their form, in order to make them correspond with the new law, and to make this amendment they shall have another term of one month, which can not be extended, counting from the date of the petition.

Any modification that the applicant should make in exercising this privilege in the principle of the invention, shall render the patent void.

ART. 110. When any one of the two terms prescribed in the preceding article shall have expired without the applicant having exercised the right for which said terms were respectively established, such right shall be considered abandoned and the patent shall be issued, taking as a basis the application and document just as they were filed from the beginning, however imperfect they may be.

ART. 111. The patents issued in accordance with the provisions of the two preceding articles shall be subject, both as regards the manner of their issuance and as to their legal effects, to the new law and just as if the respective applications had been filed when the law was already in force, except as provided in the following article.

ART. 112. The legal date of these patents shall be—

I. In case the interested parties in exercising the right granted to them by article 109 should modify their first application, the legal date of the patent shall be that in which the applicants shall file their respective modified applications and documents within the term of two months established by said article, for that purpose.

II. In case the interested party should not expressly or tacitly exercise such prerogative, the date of the patent shall be the same as that in which this law shall commence to be in force; but whenever in the case of two or more patents which are in similar circumstances, it should become necessary to determine to which of them belongs the priority of time, the chronological order in which the respective applications were actually filed shall then be taken as a basis.

ART. 113. Those persons who before this law was in force were notified that they should make the payment of the respective fees in order that the proper patent may be issued to them, and who have not made such payment, shall be granted a term of three months in which to make said payment, which term shall not be extended, counting from the date in which this law shall commence to be in force, with the understanding that should they fail to do so, the respective application shall be regarded as not having been filed and the corresponding invention as having become public property.

The list of the application still pending in such cases shall be published in the "Official Patent Gazette."

ART. 114. The patents issued because of the interested party having made the payment of the respective fees within the term fixed for that purpose in the preceding article, shall be issued in the manner prescribed by the law of the 7th of June, 1890, and shall produce the same effects prescribed by the same law and its amendment of the 27th of May, 1896, exactly the same

as if they had been applied for, acted upon, and issued before the present law was in force.

ART. 115. The patents that should be in force when this law goes into effect shall continue to produce the same effects and shall be subject to the same provisions provided in the law of the 7th of June, 1890, and its amendment of May 27, 1896.

ART. 116. The owner of one of those patents referred to in the two preceding articles, has the right to submit to the new law whenever he shall make known to the Patent Office his desire to do so within the term of six months, which can not be extended, counting from the date on which this law is declared in force.

Said submission shall be solely and exclusively for the future, and consequently, shall not naturally imply the right to alter or modify the legal date of the patent, the right of requesting the refunding of the amount paid as fees or taxes in accordance with the law which heretofore has been in force, nor the obligation of continuing to pay the fees referred to in the amendment of May 27, 1896; for inasmuch as the effects of said submission must be solely and exclusively for a future date, they naturally should comprise not only the prerogatives and rights thereby granted, but also the obligations and restrictions established by the new law.

ART. 117. From the date on which this law shall go into effect the provisions contained in the first paragraph of article 26 of the Commercial Code, shall not be applicable to the registration of the patents of invention in the Commercial Register, and a term of six months, which can not be extended, is prescribed, counting from the same date, in order that the titles of the patents that are already registered in accordance with the provisions of Section III of article 21 of the said code, be filed for their inscription in the Patent Office, with the understanding that should they fail to do so, the inscriptions named in the aforesaid office shall be preferred to those made in the Commercial Register, although the date of the latter may be previous to the former.

ART. 118. The registration of industrial models and drawings made heretofore in accordance with the law of the 28th of November, 1889, shall continue to produce the same effects

which said law recognizes, but the interested parties wishing to enjoy the benefits of the present law may do so, provided that within the term of one year, counting from the date on which this law commenced to be in force, they shall apply for a new registration, in accordance with the provisions of this law, and renounce the effects of the previous registration.

ART. 119. The registration of the industrial models and drawings, which are still pending decision when this law goes into effect, shall continue the necessary steps in order to obtain a decision in accordance with the law which has heretofore been in force, and the registrations shall produce the same effects which they have hitherto produced; but if no objection thereto is pending, the interested parties may at once submit to the requisites demanded by the new law concerning this kind of registrations, and thus they will also enjoy at once the benefits of this law.

ART. 120. The proceedings of the industrial models and drawings still pending on account of the objection which may have been made against them shall be continued, pursuant to the law of the 28th of November, 1889, until the respective objection is definitely decided:

If the decision is favorable to the applicants, the latter may exercise the right granted to them by the preceding article, provided they do so within the term of fifteen days, counting from the date in which they are legally notified of said decision.

ART. 121. The law of the 7th of June, 1890, the amendment of the 27th of May, 1896, and all the other regulations promulgated on this subject, are hereby entirely and wholly repealed.

Therefore, I hereby order that it be printed, published, circulated, and duly complied with.

Issued at the Palace of the Executive Power of the Union, at Mexico, on the twenty-fifth of August, nineteen hundred and three.

PORFIRIO DIAZ.

Gen. MANUEL GONZALEZ COSIO,  
*Secretary of State and of Fomento,  
Colonization, and Industry.*

## RULES OF PATENT-LAW PROCEDURE.

(September 24, 1903.)

PORFIRIO DIAZ, Constitutional President of the United States of Mexico, to the inhabitants thereof, know ye:

That, in the exercise of the constitutional faculty of the Executive and in conformity with the provisions of the law of the 25th of August of the present year, I have seen fit to issue the following regulations of the patent law:

ARTICLE 1. Whoever desires to obtain a patent shall file personally, or by means of an attorney, in the Patent Office, an application accompanied by the following documents:

I. A description.

II. A claim.

III. A drawing or drawings, if the same require it.

IV. Two copies of these documents.

ART. 2. Of the documents presented in conformity with the foregoing article, a receipt shall be given to the applicant in which shall be stated the date and hour in which the same were filed, the corresponding serial number, and the term during which the interested party shall appear or present himself in the Patent Office in order that he may be notified of the result of the examination referred to in article 10 of the law, and when to pay the required fiscal fees.

Should the interested party fail to comply with the terms and requirements set forth in this receipt, the case shall be considered as abandoned.

ART. 3. The application shall be made according to the corresponding models annexed to these regulations.

When a patent is jointly applied for by several persons, there must be stated in the respective application, in the first place, the name of the person who represents the others, and it must so be set forth in the specifications.

ART. 4. (a) The specification must begin with the name of the inventor or inventors, the profession of the same, should he or they have any nationality, domicile, and place in the City of Mexico for receiving notifications.

(b) Then follows the name, nature, and object of the invention, with an enumeration of the drawings.

(c) After this the invention must be described in a complete, clear, and exact manner and as concisely as possible, avoiding all kinds of digressions and adhering strictly to the object thereof. Under no pretext shall an attempt be made to give a demonstration of a mathematical, philosophical, or of any other nature whatever, concerning what is described or affirmed.

(d) At the end of the specification there must be added the claim.

(e) The claim must be signed by the inventor or his representative.

(f) The corresponding models annexed to these regulations must be strictly followed.

ART. 5. The claim must define and express clearly and with all exactness the process, combination, or product which constitutes the invention or the organ or piece that forms the essential part of the invention, indicating at the same time the relation which it may have to another or other organs or elements which are not the direct object of the patent.

ART. 6. The drawings must be made on white paper of the thickness of three-sheet Bristol board, having a smooth and compressed surface approximately 380 millimeters in height by 254 millimeters in width. A heavy line, 25 millimeters from the edge of the paper, shall form a frame or body within which the drawing must be made. In the upper part of this frame or body and within it, shall be left a blank space of 25 millimeters, approximately, in order that the Patent Office may place therein the name of the invention, the serial number of the same, etc. The interested party shall write with a soft pencil on the back of the sheet the title which he has given to his invention.

In the lower part of the body or frame, and to the right side, he shall sign.

(a) Preferably care should be taken so that one of the narrow sides of the paper remains as the upper part thereof; but

if it be considered better to take one wide side of the paper as the upper side thereof, it may be done.

(b) If a sheet is not sufficient, several may be used, but in at least one of these the complete invention must appear.

(c) Only China ink and graphite shall be used, taking care that the ink be absolutely black. Shading should be avoided as much as possible, and whenever the same is absolutely necessary it should be done with the least possible number of lines.

(d) It shall be assumed that the light comes from the left-side upper angle of the paper at  $45^{\circ}$ , so that the lines formed on the side of the shade shall be represented heavier than those on the side of the light.

(e) It is preferable at all events, and is specially recommended, to present the invention in one single drawing of the largest possible size, in a conventional and free perspective view, without the necessity of being subjected to any scale, not even among the parts of one and the same figure, considering always that what is desired above all things is clearness.

(f) If it is considered necessary to show one or several sections, they must be indicated in the general drawing by means of dotted or dash lines, or dash and dotted lines, always taking care to mark in the section the reference sign or letter of the line to which it corresponds.

(g) The pieces shown in section must be marked by means of oblique lines at least 1.5 millimeters from each other.

(h) The signs must be letters or numerals the size of which in no case shall be less than 3 millimeters. If there are places where they can not be put or where it is feared that they may cause confusion, they should be placed as near as possible and united to the point which they indicate by the broken or curved line.

(i) If in spite of this it is necessary to place a sign or letter in a space marked by means of oblique lines, a small circle must be left in blank in order to place in it the sign.

(j) Whenever there are pieces or details, which in general figure are shown too small, they must be marked by means of only one letter or sign and present them sufficiently amplified in special figures marked by the same sign.

ART. 7. The duplicate must be made on tracing cloth and with China ink.

ART. 8. Whenever, in the patents solicited by means of drawings or models, photographs instead of drawings are admitted, the latter and their duplicates shall be made precisely on blue paper or other unalterable heliograph. The paper must be of the dimensions already stated.

Besides, a negative shall be delivered, which must be made on pellicle, preferably thick.

ART. 9. The drawings shall not be folded, but shall be presented stretched between two thick pieces of pasteboard.

ART. 10. The indications of the drawings annexed to these regulations shall be followed in toto.

ART. 11. Whoever in the case referred to in section I of article 5 of the law, desires to secure the rights to which said section refers, must send to the Patent Office a specification, claim, and drawings of the object or article which is going to be exhibited, and the Patent Office shall give to him a provisional receipt.

The specification, the claim, and the drawings must be made in conformity with what has already been provided in the law and the regulations, and shall be those which must be utilized or used in the application of the patent.

ART. 12. Two or more independent inventions can not be patented in one single patent; but when several different inventions are related to each other in one single machine or process and mutually contribute to produce only one single or unique result, they can not be solicited only in one patent.

ART. 13. In general, every organ or conjunction of organs which is susceptible of exploitation separately and the utilization of which is not absolutely obligatory with the machine in which they are used constitutes the object of an individual patent.

ART. 14. A machine and its products must be the subject-matter of independent patents.

ART. 15. A machine and the process in which it is used are subject-matters of independent patents.

ART. 16. A process and its products may be patented only in a single patent.

ART. 17. An industrial drawing and the process to obtain the same are subject-matter of two independent patents.

ART. 18. An industrial model and the process to obtain the same are subject-matter of two independent patents.

ART. 19. A process in which a substance or organ necessitates other or another or other processes in order to obtain it, requires two or more patents; but if the substance results as a necessary consequence of the same process, one single patent will be sufficient.

ART. 20. In every doubtful case preferably two or more patents must be solicited.

ART. 21. If the result of the examination referred to in article 10 of the law and article 2 of these regulations, should be favorable (or satisfactory), the interested party must present to the Patent Office, within the term indicated or fixed to this end in the receipt of documents, a 5-pesos stamp with the reseal of "Patents" (Patentes) which corresponds to the payment of the Government or fiscal fee for the first term or installment of one year, and he shall adhere it and cancel the same in the manner that may be indicated to him.

ART. 22. Any working day during the first term of one year the interested party may ask the definite patent.

In order to do this he must present in the Patent Office three 10-peso stamps with the reseal or stamp "Patents," and one 5-peso stamp equally resealed, adhering them in the manner indicated to him and duly canceling them.

The Patent Office shall proceed to issue to him the corresponding title deed.

ART. 23. The patents shall be inscribed in a special register or record.

ART. 24. Anyone desiring to obtain the extension of time referred to in article 18 of the law, must address a petition to the Patent Office on any working day during the penultimate half-yearly term of the natural term of the patent sought to be extended, and shall attach to said petition all the documents that may be deemed necessary in order to prove that the patent has been at least two years in uninterrupted exploitation in the country, stating the other reasons on which the petition is based.

The Patent Office shall forward the petition and document to the Department of Fomento, with the report or opinion that it may deem proper.

If the Department should find any obscurity in the documents or any deficiency in the proofs rendered, it shall grant to the interested party, through the Patent Office, a term of no less than eight days and no longer than a month, in order that within it the applicant may make the declaration or furnish the new proofs that may be necessary.

After the expiration of said term, whether the interested party avails himself of it or not, the Department shall definitely resolve whether the prorogation solicited shall be granted or not.

ART. 25. The Patent Office shall give notice to the interested party of the result of his petition. If the latter is favorable, the interested party shall adhere to the documents that may be indicated to him the number of stamps with the restamp "Patents" (Patentes), which shall cover the fees fixed by the Executive, duly canceling said stamps.

This notice and the stamps covering the fees must be presented to the Patent Office before a month from its date, accompanying the title deed of the patent in order to note therein the prorogation, with the understanding that should he fail to do so, the right to that privilege shall be considered forfeited.

ART. 26. In order to ask the examination referred to in article 36 of the law, a petition must be presented with one 50-cent document stamp canceled by the petitioner, and he shall adhere to the document that may be indicated to him two 10-pesos stamps with restamp bearing the word "Patents" (Patentes), duly canceling them. The Patent Office shall send to the interested party a document bearing the number and date of the patents which in his opinion are equal or similar to that which has been solicited or the quotations and indications that he may deem pertinent.

The applicant shall clearly indicate his domicile in his petition.

ART. 27. The Patent Office shall fix the prices at which it shall sell to the public printed copies of the patents granted.

ART. 28. The application in which the registration of some of the acts to which article 37 of the law refers is requested, shall be accompanied by a 5-pesos stamp with the restamp "Patents" (Patentes), which the interested party shall adhere

to the document that may be indicated to him, duly canceling said stamp.

ART. 29. Under no pretext shall it be possible to demand the return of documents of any kind or the fees paid in cases of forfeiture, annulment, abandonment, or when for any other motive or reason the patent should not be declared in force. Neither shall anyone have the right to demand the return of the copy or model that he may have delivered to the Patent Office.

ART. 30. Whenever the title of ownership of a patent is lost or destroyed, the replacement thereof may be requested. In order to do this the interested party shall cause a copy of the description, claim, and drawings to be made at his expense, and shall pay as fees 15 pesos in stamps with the restamp "Patents" (Patentes), and he shall adhere said stamps to the document that may be indicated to him, duly canceling them.

In the new title deed it shall be stated that it is a duplicate.

ART. 31. In case the Patent Office should manifest its conformity with the regularity of the documents presented, relating to a patent granted by an industrial model or drawing, the interested party shall present to the Patent Office, within the term that for such purpose may be indicated to him in the receipt of the documents, a 5-pesos stamp with the restamp "Patents" (Patentes), if a five-years' patent is desired, or a 10-pesos stamp, equally restamped, if he desires a ten-years' patent, and he shall adhere said stamp to the document that may be indicated to him and cancel the same.

ART. 32. The application, the description, claims, and the duplicates thereof, as well as all the documents, notes, etc., presented to the Patent Office, shall be written only on one side and on paper of 330 by 215 millimeters precisely, written on a typewriter and in blue or dark violet fixed ink, or well printed.

To the left a margin should be left equivalent to one-fourth the width of the paper.

Therefore I order that it be printed, published, circulated, and duly complied with.

Given at the Palace of the Executive Power of the Union, in Mexico, on the 24th of September, 1903.

PORFIRIO DIAZ.

## MEXICO TRADE MARK LAW.

(August 25, 1903.)

PORFIRIO DIAZ, Constitutional President of the United States of Mexico, to the inhabitants thereof, greeting:

That, by virtue of the power granted to the Chief Executive of the Union by the decree of Congress of May 28 of the present year to amend the patent, trade mark, and other laws on industrial property now in force, I have seen fit to issue the following trade mark law:

## CHAPTER I.

*Definition, registration, and nullity.*

ARTICLE 1. A trade mark is the characteristic and peculiar sign or name used by the manufacturer, agriculturist, or merchant in the articles which he produces or sells for the purpose of distinguishing them and to indicate their origin.

A trade mark may be especially constituted by the names under a peculiar form, the denominations, labels, wrappers, packages or holders, stamps, seals, vignettes, borders, raised embroidery, filigrée, engravings, coat of arms, emblems, reliefs, figures, mottoes, etc., it being understood, however, that this enumeration is simply made for the purpose of illustration, the application of trade marks not being limited to said articles.

ART. 2. In order to obtain the exclusive rights to the use of a trade mark it shall be necessary to register the same in the Patent and Trade Mark Office and otherwise comply with the formalities established by the present law and the regulations thereof.

ART. 3. Whoever desires to register a trade mark shall file with the Patent and Trade Mark Office an application, accompanied by the following:

I. A description of the trade mark, concluding the same with the proper reservations of the same. In said description shall also be stated the following data: The name of the owner, the name of the manufactory or business, should he have any, the

place where the latter are situated, and the description of the articles or products to which the trade mark shall be applied.

Should the interested party deem it necessary, a description and drawings of said articles or products may also be attached.

- II. Two copies of the foregoing document;
- III. A facsimile or cut of the trade mark; and
- IV. Twelve samples of the trade mark, exactly alike, shall be used.

ART. 4. Every Mexican or foreigner can register a trade mark. To do so, he must apply to the Patent and Trade Mark Office in person or through an attorney.

Corporations, companies, and all other legal entities generally, have the same right.

The representation and qualification of an attorney may be verified by a simple letter, serving as a power of attorney, which shall be signed before two witnesses, and the office may demand the ratification of the signatures of said letter whenever it may deem convenient to do so.

ART. 5. The following can not be registered as trade marks:

I. Generical names or titles, when the trade mark is intended to protect articles embraced in the group or class to which the name or title refers, inasmuch as the essential requisite, in order that a title or name may serve as a trade mark, is that it be capable of indicating or distinguishing the articles thus protected from other articles of precisely the same description or kind.

II. Everything that is contrary to morals, good customs, or to the laws of the country, and everything that may tend to ridicule ideas, persons, or articles worthy of consideration.

III. The national coat of arms, escutcheon, and emblems.

IV. Weapons, escutcheons, and emblems of the States of the Federation, national or foreign cities, foreign nations and states, etc., without their respective consent.

V. The names, signatures, seals, and pictures of private persons, without their consent.

ART. 6. The registration of a trade mark shall be renewed every twenty years. The delay in making said renewal shall not result in the loss of the rights to the exclusive use of the trade mark, but the interested party thereby incurs an increase in the Government fees which he shall have to pay in accord-

ance with the provisions of the regulations, and until said renewal takes place the interested party shall have no right to bring a criminal action against or prosecute those who should improperly use or counterfeit the trade mark.

ART. 7. The registration of a trade mark shall commence to be in force from the date on which the respective application and documents shall have been duly filed with the Patent and Trade Mark Office.

ART. 8. The trade mark, the registration of which is applied for in Mexico within four months after having been applied for in one or several foreign countries, shall be regarded as having been registered on the same date in which it was registered in the first foreign country in which it may have been previously registered, provided that said first country grants this same right to Mexican citizens. Hence every trade mark registered in Mexico under these conditions shall have exactly the same power and shall produce the same effect that it would have if it had been registered on the same day and hour in which it was registered in the first foreign country.

ART. 9. The registered trade mark shall bear thereon visible inscriptions, which shall respectively read:

I. Those used by manufacturers, merchants, agriculturists, etc., "Registered Trade Mark," or the same words written in abbreviation, together with the number and date of the registration.

II. Those used by merchants shall read "Registered Commercial Trade Mark," or the same words written in abbreviation, together with the number and date of the registration.

III. Whenever the trade mark consists of names, titles, inscriptions, etc., or of monograms or abbreviations, or when, consisting of signs which are not letters, said marks should bear the names, titles, etc., or monograms or abbreviations, said marks shall necessarily bear in a conspicuous or visible manner the name of the owner of the industry or trade, the name of the business, manufactory, etc., should he have any, and the place where the latter are situated.

ART. 10. The registration of a trade mark shall be made without an examination as to its novelty under the exclusive responsibility of the applicant and without prejudice to third parties.

The Patent and Trade Mark Office shall make a merely administrative examination of the documents filed, in order to satisfy itself as to whether they are complete and comply, concerning their form, with the requisites provided by this law and the regulations thereof.

If the Patent and Trade Mark Office should find that the documents do not comply with the requisites as to their form, the examination of which it is the duty of said office to make, that the trade mark does not bear the inscriptions referred to in section third of article 9, or that the article or thing sought to be registered is comprised in the provisions of article 5, in its section two and three, shall regard the documents as not having been filed and shall make known this fact to the interested party by means of a notice.

Should the interested party not be satisfied, he may appeal to the courts, in accordance with the provisions of chapter 3 of this law.

Should the Patent and Trade Mark Office be satisfied with the correctness of the document filed, it shall so advise the interested party by means of a notice.

ART. 11. The certificate of registration of a trade mark shall be issued by the Patent and Trade Mark Office. This certificate duly legalized, together with the documents attached thereto, constitutes the title which proves the right to the exclusive use of the trade mark.

ART. 12. Registered trade marks can be transferred and sold or disposed of like any other right; but it shall be an essential requisite to state thereon the name of the transferee when said trade marks are comprised in the case to which section third of article 9 refers.

The transfer thereof shall be registered in the Patent and Trade Mark office, and without this requisite it shall have no effect against a third party.

ART. 13. The transfer of a trade mark implies or carries with it the right of industrial or commercial exploitation of the industrial product or commercial articles protected by said trade mark.

ART. 14. The change of place of the establishment where the articles protected by a trade mark are manufactured or sold, or the fact of their being manufactured or sold in a factory

or manufactory different from that in which they were manufactured or sold before, shall be recorded in the Patent Office and shall also be stated in the respective trade mark when the latter shall bear the inscription referred to in Section III of article 9.

ART. 15. The registration of a trade mark shall be void whenever the same has been made in contravention of the provisions of this law and the regulations thereof, or when said trade mark had been previously registered by somebody else, if more than two years have elapsed since said registration, or, two years not having yet elapsed, another had made the registration with a better right.

ART. 16. The action requesting the nullification of a trade mark may be brought by anyone who considers himself injured by said registration, and by the Public Prosecutor, in cases of general public interest.

ART. 17. The final sentence declaring the nullity of a trade mark shall be communicated to the Patent and Trade Mark Office by the judge who had cognizance of the case, and shall be published in the "Official Gazette of Patents and Trade Marks."

## CHAPTER II.

### *Penalties.*

ART. 18. Whosoever applies to the articles that he manufactures or sells, a trade mark already legally in favor of another person, for the purpose of protecting similar articles, shall be punished with imprisonment of one or two years and with a fine of from 100 to 2,000 pesos, or with either of these penalties, at the discretion of the judge.

The same penalty shall be imposed on whosoever, in a like manner, and as provided by the preceding paragraph, should apply to his articles or merchandise a trade mark which should prove to be an imitation of the trade mark legally registered, in such a way that it may be mistaken at first sight for the legal trade mark, and when only by means of a thorough examination can one be distinguished from the other.

The same penalty shall be imposed on whosoever applies to his articles or merchandise a trade mark that, though legally

registered, is made to appear as being another trade mark, by reason of any addition, subtraction, or modification.

ART. 19. Whosoever, without being the author of the acts or deeds enumerated in the preceding article, fraudulently sells, offers for sale, or puts in circulation articles or merchandise marked in the manner stated in the same article, shall be punished with imprisonment and fine, or with either of these penalties, at the discretion of the judge.

ART. 20. Whoever, without committing any of the offenses stated in the two preceding articles, should use a trade mark, which either by its simple appearance or by virtue of the inscriptions or remarks accompanying the same, might cause the public to make an error concerning the origin of the articles whereon said trade mark had been applied, shall incur in the penalty of imprisonment of one or two years, and a fine of from 100 to 2,000 pesos, at the discretion of the judge.

ART. 21. He who fraudulently sells, offers for sale, or puts in circulation articles bearing a trade mark possessing the irregularities stated in the foregoing article, shall be punished with imprisonment and fine, or with either of these penalties, at the discretion of the judge.

ART. 22. When, in the case mentioned in the two foregoing articles, the trade mark had been registered in the Patent Office, such fact shall be regarded as a fourth-class offense.

ART. 23. Whosoever applies to his articles or merchandise trade marks, "labels," etc., whereon false statements are made, either in an open or deceitful manner, concerning the character and composition of the articles protected by them, shall be punished with imprisonment of from one to two years, and a fine, or with either one of these penalties, at the discretion of the judge; and whosoever shall fraudulently sell, offer for sale, or put in circulation articles or merchandise thus marked, shall incur imprisonment and a fine.

ART. 24. He who, having a legally registered trade mark, should fail to attach to the same the inscription provided for in Section III of article 9, or should fail, whenever necessary, to make the statement or note referred to in the final part of article 14, shall incur imprisonment and a fine, or in either one of these penalties, at the discretion of the judge; and whosoever should write false statements shall also be punished with the

same penalty specified in article 20, and shall likewise be included in the case mentioned in article 22.

ART. 25. Whosoever should put on a trade mark the statement that the same is registered at the Patent and Trade Mark Office, without it being actually so registered, shall incur imprisonment and a fine, or either one of these penalties, at the discretion of the judge.

ART. 26. In case an offense should be repeated, the first time said repetition takes place the prescribed penalties for such offense shall be increased by one-half, and upon every repetition said penalty shall be successively increased by one-half.

A repeater is anyone who has committed the new offense of which he is accused before five years shall have elapsed since the final decision which declared him guilty of any of the offenses mentioned by this law, even though the previous offenses had relation to another patent different from that to which the new infringement or offense refers.

ART. 27. Printers, lithographers, etc., who make counterfeit trade marks which are improperly used, and whosoever sells, offers for sale, or puts them in circulation, shall be regarded as joint authors or accomplices, etc., as the case may be, in accordance with their respective responsibility, determined in accordance with the principles and provisions established by the Penal Code of the Federal District.

ART. 28. It shall be the duty of the Public Prosecutor and of every person who considers himself injured to bring an action in order to prosecute the person or persons guilty of the offenses specified in the foregoing articles, and once the action is commenced it shall be officially continued by all means.

ART. 29. In the case referred to in articles 18, 19, and 27, the owner of the legally registered trade mark shall also have the right to demand from the guilty party the payment of losses and damages.

The owner of said patent shall also have the right to request that all the products bearing the illegal trade mark, whether said products be in possession of the person accused as the author of the offense or in the possession of any other merchant, commission merchant, or consignee; but in order to exercise such right it shall be an essential requisite that the owner of

the trade mark shall not have failed to write thereon any of the inscriptions required by article 9.

The owner of a trade mark shall likewise have the right to demand that all the trade marks which had been instrumental in the commission of the crime or offense and which are in possession of the author of the offense or of his accomplices, be delivered to him, and, should he deem it necessary, that the appliances or apparatus especially destined to the manufacture of said trade mark be also delivered to him.

ART. 30. Besides the provisions of the foregoing article, the owner of a trade mark shall have the right to demand of the judge, either before bringing his respective suit or during the course of the action, the insurance of the articles of merchandise referred to in the second and third paragraphs of the same article, and to appoint, on his own responsibility, a receiver of said articles of merchandise. But in order to carry out said insurance the following requisites shall be essential:

I. To present the certificate of the Patent and Trade Mark Office, showing that the trade mark in question has been duly registered.

II. The verification, by means of the respective title duly recorded in the same office, that the author is the present owner of the trade mark.

III. The verification, by any legal means, of the subject-matter of the offense.

IV. That a sufficient guaranty be given, at the discretion of the judge.

ART. 31. The proceedings referred to in the preceding article shall be carried out without the presence of the party against whom they are brought and under the exclusive responsibility of the person requesting the same, the latter being bound to pay the losses and damages caused thereby to the defendant, whether he brings the respective criminal or civil action within the fifteen days following the date on which the insurance is made, or because the defendant may be absolved or the action suspended.

In such cases the insurance referred to in the preceding article shall be ordered to be immediately released.

ART. 32. The judge who takes cognizance of the offense to which reference is made in the foregoing articles, shall also

decide as to the nullity, forfeiture, and ownership of the trade mark, when the same are set forth as a defense against the proper criminal action, and the respective decisions shall be made known to the Patent and Trade Mark Office.

ART. 33. In case of the commission of any of the offenses to which reference is made in the preceding article, in which the respective complaint is not made by the owner of the trade mark legally registered which it should appear to have been improperly used or counterfeited, the author of the offense or offenses shall forfeit in favor of the respective Federal Treasury or in favor of the State Treasury, the articles or merchandise designated by the defective or illegal trade mark, and the trade mark and appliances to which reference is made in the final paragraph of article 29 shall be destroyed whenever required.

ART. 34. Whenever an offense or a fault is committed which is not mentioned in this law, and the penalty of which is specified in the Penal Code of the Federal District, as well as in all matters relating to the general rules concerning offenses and faults, degrees of intentional offense, accumulation, application of penalties, criminal and civil responsibility, provided that in the present law there be no special provision concerning such matters, the rules established in said Penal Code shall be observed, the provisions of which shall be declared obligatory throughout the Republic in everything relating to trade marks and in everything which is not modified by the present law.

ART. 35. It devolves on the courts of the Federation to take cognizance of the controversies arising by reason of the present law in the following cases:

I. In case of the validity or nullity of the registration of a trade mark, or when it is maintained that the Patent and Trade Mark Office has no power to register said mark, or that it registers the same without the legal requisites.

II. Whenever trade marks which are not registered are announced as having been registered.

III. In any other case in which the State or Federation is an interested party, or when the Federal interests are affected; and

IV. Whenever reference is made to acts of the Patent and

Trade Mark Office which are not included in Section I of this article.

The district judges of the City of Mexico shall have jurisdiction in the cases mentioned in Sections I, II, and IV.

It shall devolve on district judges to whose jurisdiction the residence of the defendant belongs, to take cognizance of the cases to which reference is made in Section III, if it be a civil action, and the place where the offense was committed, if it be a penal action.

ART. 36. The proper judges in accordance with the law shall take cognizance of and decide the criminal and civil actions which may arise on account of the application of this law, but only when private interests are affected.

ART. 37. The provisions of the preceding articles do not prevent the compliance with article 32 of this law, whenever said provisions are applicable.

ART. 38. Every civil or criminal decision, in any manner or way relating to the trade mark referred to in this law, shall be communicated to the Patent and Trade Mark Office, and this office, whenever said decision in any sense modifies the rights concerning a trade mark, shall cause said decision to be published in the "Official Gazette," and shall report the registration of the trade mark the rights of which are under consideration.

Notwithstanding the above, any other decision relating to trade marks may be ordered to be published either when so requested by any one of the parties interested in said trade mark or when the office may consider the decision of sufficient importance to be worth publishing.

### CHAPTER III.

*Procedure in order to obtain the repeal of administrative decisions.*

ART. 39. Whenever the interested parties are not satisfied with the administrative decisions or decrees of the Department of Fomento or with those of the Patent and Trade Mark Office, they may appeal within fifteen days after being advised of the decision to any of the district judges of the City of Mexico, setting forth the reason of their nonconformity.

ART. 40. If they should fail to make said appeal after the term to which reference is made in the preceding article, the administrative decision shall prevail.

ART. 41. The claim shall be made by the filing of a petition, and a simple copy thereof shall be verified by the court.

The copy of the petition shall be sent within twenty-four hours to the Patent Office, in order that the latter may report thereon within eight days.

ART. 42. After the receipt of the report, the same, together with the claim, shall be forwarded to the public prosecutor, in whose hands it shall remain during three days, in order that said official may prepare his petition, acting as a defendant in behalf of the Department of Fomento.

ART. 43. If the presentation of proofs should be necessary, a term shall be fixed, which shall not exceed ten days, and after the expiration of the same the interested parties shall be summoned within three days, at the latest, for a hearing, at which hearing the judge shall take cognizance of the arguments of the interested parties and shall render a decision within five days, with or without the attendance of the interested parties.

This decision may be appealed from in both rulings, and the appeal shall be made within five days, which term can not be extended.

ART. 44. If an appeal is made from this sentence the proceedings shall be immediately forwarded to the proper circuit court, which only at the hearing (to which said court shall summon within five days at the latest) shall render a decision within the term of another five days, sending a copy thereof to the Patent Office, so that it may have its proper effects.

ART. 45. A copy of the final sentence shall be forwarded to the authority whose decision may be under consideration.

ART. 46. Should the decision declare unfounded the objections of the interested party to the administrative decision, a fine of from five to twenty-five pesos shall be imposed on said party.

#### CHAPTER IV.

##### *Procedure in civil actions.*

ART. 47. Civil actions arising out of the present law shall

be conducted and decided at once by means of the procedure stated below, with the exception of the provisions of the preceding chapter and the provisions that may be prescribed for criminal actions.

ART. 48. The term in which to answer the suit shall be five days.

ART. 49. No preliminary question shall be admitted unless it refers to the legal capacity of the parties or to the jurisdiction of the judge.

ART. 50. Both the lack of legal capacity and the lack of jurisdiction may be set forth as late as three days before the term granted for answering the petition.

ART. 51. Once the question of lack of capacity is raised, the discussion thereof shall take place at the same proceedings, and the results shall be made known to the other party within three days.

ART. 52. If any of the interested parties should ask for evidence, the judge shall fix the term in which to present the same, which in no case shall exceed ten days.

ART. 53. Once the proofs are presented, the judge shall summon the interested parties to a hearing, which shall take place within three days, in order that said interested parties may set forth at said hearing whatever may be best in support of their right.

ART. 54. The summons to said hearing shall serve as a summons for the final decisions, which the judge shall render within three days, whether the interested parties have attended the hearing or not.

ART. 55. In case no proofs have been asked for, the judge shall decide simply by virtue of the hearing.

ART. 56. Once the question of lack of jurisdiction is raised, it shall be thoroughly discussed in accordance with the provisions of the Federal or Local Codes of Civil Procedure, as the case may be.

ART. 57. Peremptory pleas shall be made on answering the suit and shall be decided together with the principal question.

ART. 58. The compensation and the charge shall not be permitted except when the action upon which they are based is also subject to summary proceedings.

ART. 59. The term in which to present the proofs concern-

ing the main question shall be twenty days, which may be extended for a period of fifteen days, at the discretion of the judge, and within said period the objections to the witnesses and instruments shall be set forth and proved.

ART. 60. In case some of the interested parties should object to a document that may be of notorious influence in the suit, the question shall be continued separately, without suspending the proceedings, but no final decision shall be rendered concerning the principal point except when the question is settled by virtue of a decision producing the final sentence.

ART. 61. Should it be alleged that one of the documents is false, the judge who has jurisdiction in the proceedings shall cause said document to be taken out, leaving a certified copy in its place, and shall send said document to the judge of the criminal court or to the judge of the district court, as he may deem proper, and he shall sign the same, together with the secretary or the witnesses in attendance, as the case may be.

If the judge who takes cognizance of the principal action exercises a combined jurisdiction, he shall cause the document to be taken out of the proceedings, conducting by separate proceedings the proper criminal action.

ART. 62. In the first case, before the transfer to the proper judge is made and before commencing the criminal action in the second case of the same article, the party who has filed the document alleged to be false shall be requested to state whether he proposes that the same shall be taken into consideration or not. If he should insist in rendering it valid, the action shall be suspended in whatever stage it may be, until a final decision is rendered on the question of falsity; and if the party should not insist on said document being taken into consideration, the same shall be sent to the proper judge, or the operation of taking off the document shall be effected in order to initiate the respective criminal proceedings without suspending the course of the civil proceedings.

ART. 63. Once the term for the presentation of proofs or the extension of time, as the case may be, has expired, the proofs shall at once be ordered published, each of the parties having access to the proceedings during three days, in order to enable them to make their allegations in a hearing which shall take place three days afterwards, at the latest.

In said proceedings the appeal shall be made within three days, which term can not be extended, and in case of a decision, said appeal shall be made within the term of five days, which, likewise, shall not be extended.

ART. 64. At the end of said hearing a summons shall be made in order to render the final decision, which shall be rendered within the following five days.

ART. 65. The appeals taken against the rulings and decisions rendered in this kind of cases do not suspend the execution of the same.

## CHAPTER V.

### *Procedure to be followed in criminal actions.*

ART. 66. Criminal actions brought in accordance with the present law, if they are brought before the Federal judges, whenever they have jurisdiction, shall be discussed as other criminal actions are discussed at present, until the Code of Federal Procedure on Criminal Practice is issued.

ART. 67. When the same actions have to be brought before the local judges of the Federal district of the States or Territories, in accordance with article 97 of the Constitution and the present law, the procedure shall be that which is in force in accordance with the laws of each of said States or Territories.

ART. 68. The civil action incidental to the criminal action established by this law may be conducted at the same time and before the same court which takes cognizance of the criminal action; but if the civil action should reach the stage of a decision before the criminal action is finished, the civil case shall be suspended until the criminal action is in the same stage, in order that both actions may be disposed of in the same decision.

ART. 69. If the civil action is not ready for decision and, consequently, would not be decided at the same time as the criminal action, the judge of the civil court selected by the plaintiff shall afterwards take cognizance thereof, unless the judge who had taken cognizance of the criminal action exercises a combined jurisdiction.

ART. 70. The civil action shall be commenced and continued separately before the proper court:

I. Whenever an irrevocable decision has been rendered in the criminal action without having commenced in due time the civil action in the criminal proceedings.

II. Whenever the defendant has died before instituting the criminal action.

III. Whenever the criminal action has expired by limitation and the civil action is still in existence.

ART. 71. Whenever the interested party has initiated the action on account of a civil responsibility in the criminal action, the question shall be discussed in accordance with articles 47 and the following ones.

ART. 72. If the criminal action is brought before the local courts, the question concerning civil responsibility shall be discussed as provided for in the respective local law.

## CHAPTER VI.

### *Commercial names and advertisements.*

ART. 73. The owner of a commercial name has the exclusive right to use it without registration or any other requisite whatever; and in order to exercise this right he shall be entitled to bring a civil action against whosoever usurps or imitates said right, in order to stop the usurpation or imitation, and to demand the payment of losses and damages, and to bring a criminal action in order that the guilty party be punished.

ART. 74. Notwithstanding the provisions of the foregoing article, every merchant, whether native or foreign, has the right to have his commercial name published in the "Official Gazette of Patents and Trade Marks;" in order to obtain the prerogative or privilege prescribed in article 77. In order to retain this prerogative it shall be necessary to renew the publication every ten years.

ART. 75. Whoever should in any way use a commercial name which does not belong to him, shall be subject to imprisonment and fine or to one of these penalties, at the discretion of the judge.

The same penalty shall be imposed on whoever imitates a commercial name in such manner as to produce confusion.

ART. 76. The penalties imposed and prescribed by the preceding article shall be imposed without prejudice to those to which the same offense is subject, whenever the commercial name improperly used is made to appear accompanied by a trade mark and forming a portion thereof, provided that the use of the trade mark constitutes an offense in accordance with this law, inasmuch as in such a case the rules of accumulation established by the Penal Code of the Federal District shall be applied.

ART. 77. In order that the penalties prescribed by article 75 may be imposed, it shall be an essential requisite for the interested party to prove that the accused acted fraudulently. Notwithstanding the above, any merchant who has caused his commercial name to be published in the "Official Gazette of Patents and Trade Marks," in accordance with the provisions of article 74, shall be exempt from the aforesaid requisite, and the legal presumption shall be that the accused acted fraudulently.

ART. 78. The right of bringing criminal action and to demand the payment of losses and damages to which reference is made in article 73, belongs also to a third party who has been injured on account of the usurpation or imitation of a commercial name.

ART. 79. Every person who, in order to advertise or announce to the public any business manufactory, trade, or articles, makes use of advertisements which, owing to any circumstance, should happen to possess certain originality, easily distinguishing them from those of their kind, may acquire the exclusive right to continue to use them and to prevent other persons from using the same or similar advertisements to such extent as to produce confusion and to be mistaken as a whole and at first sight, being subject, in so far as it may be necessary, to the same requisites prescribed by the present law concerning the registration of trade marks.

ART. 80. In the case of commercial advertisements, the registration shall be in force from five to ten years, at the option or will of the interested party, and once the respective terms expire, the commercial advertisements shall, *ipso facto*,

become public property. Before the expiration of any of the above terms the interested parties shall have the right to an extension of the term of said registration, which extension may be for five or ten years, at the option of the applicant, a right which may be exercised indefinitely.

These extensions of time shall be published in the "Official Gazette of Patents and Trade Marks."

ART. 81. The owner of a commercial advertisement thus registered has both the right to bring a civil action in order to prevent the continuation of the usurped or imitated advertisement, and to demand the payment of losses and damages, as well as a criminal action, in order to punish the guilty party.

ART. 82. Whoever usurps or imitates a commercial registered advertisement shall incur imprisonment and a fine, or in one of these penalties, at the discretion of the judge; but if the form of the advertisement coincides or corresponds with that of a trade mark which has been also registered, the author of the usurpation or imitation shall be punished as in the case of usurpation or imitation of trade marks.

ART. 83. Printers, lithographers, etc., who make counterfeited commercial advertisements which are improperly used, and whosoever sells, offers for sale, or puts them in circulation, shall be regarded as joint authors or accomplices, etc., as the case may be, in accordance with their respective responsibility, which latter shall be determined in accordance with the principles and provisions established by the Penal Code of the Federal District.

ART. 84. The provisions of Chapters III, IV, and V, are applicable in so far as they relate to the commercial names and advertisements.

## CHAPTER VII.

### *Government fees.*

ART. 85. A fee of five pesos shall be charged for the registration or extension of time of a trade mark.

A fee of one peso shall be charged for the publication of a commercial name.

The following fees shall be charged for the registration of a commercial advertisement:

Two pesos for a five years' registration.

Four pesos for a ten years' registration.

Four pesos for each extension of time of five years.

These fees shall be paid in internal revenue stamps in the form and manner prescribed by the regulations of this law.

Said regulations shall fix the fees which the Patent and Trade Mark Office shall charge for other services, such as registration of transfers, change of place, renewals of the certificates of registration, etc., which fees shall also be paid in internal revenue stamps.

## CHAPTER VIII.

### *Transitory articles.*

ART. 86. This law shall commence to be in force on the first day of October of the current year.

ART. 87. The trade marks which have been registered up to said date shall retain all their legal force and validity in accordance with the law which has been in force up to the present date, but in order that their respective owners may exercise the right of bringing the criminal actions granted by this law, it shall be an essential requisite that every twenty years from the date in which this law is declared in force, the renewal of the respective registrations shall be made, as provided in article 6.

ART. 88. The registrations of trade marks which are still pending because the respective proceedings are being carried out, and to which no objection had been made, shall not be subject to any further objection, and shall be registered at once in accordance with the provisions of the law which has been in force up to the present date.

To this end the interested parties are granted a term of two months, counting from the date in which this law shall commence to be in force, in order that they may pay the proper Government fee, with the understanding that should they fail to make such payment, the proceedings included or comprised in such case shall be recorded and the respective applications shall be regarded as not having been filed.

ART. 89. The proceedings of registration of trade marks which are yet pending because an objection has been made thereto, shall be continued in accordance with the provisions of the law which has been in force up to the present date; but as soon as the objection is definitely decided in favor of the interested party, either through a judicial decision or by means of a compromise or understanding between the interested party and the opponent, the matter shall be acted upon in accordance with the provisions of the foregoing article, with the understanding that the term of two months, to which reference is made in said article, shall be commenced to be counted, in the present case, from the date in which the interested party had been legally notified of the respective final sentence, or from the date in which the compromise or settlement was made.

ART. 90. The registration of trade marks that is pending only on account of the payment of the respective fee or tax not having yet been made shall be carried out pursuant to the provisions of the law in force, and the provisions of the transitory article 87 shall apply to said registration.

ART. 91. From the date on which this law shall commence to be in force the provisions of the first paragraph of article 26 of the Commercial Code shall no longer be applied to the registration of trade marks in the Commercial Register; and a term of nine months, which can not be extended, is hereby fixed, counting from the same date, in order that the trade marks which are registered in accordance with the provisions of Section III of article 21 of said Code, be presented, in order to make their inscription in the Patent Office, with the understanding that should the interested party fail to do so, the inscriptions made in said office shall be preferred to those made in the Commercial Register, even though the date of the latter may be previous to that of the former.

ART. 92. Articles 700, 701, 702, and 708 of the Penal Code of the Federal District, in so far as they relate to their applicability to the offenses concerning trade marks, to which reference is made in the present law, are hereby repealed.

ART. 93. The law of the 28th of November, 1889, and the amendment thereof bearing date of December 17, 1897, as well as any other regulations which may not be in accordance with the provisions of the present law, are hereby repealed.

Section XVI of article 1 of the law of Federal Revenues, is hereby also repealed.

Therefore I hereby order that it be printed, published, circulated, and duly complied with.

Issued at the Palace of the Executive Power of the Union, at Mexico, on the twenty-fifth of August, one thousand nine hundred and three.

PORFIRIO DIAZ.

Gen. MANUEL GONZALEZ COSIO,

*Secretary of State, Fomento, Colonization, and Industry.*

#### RULES OF TRADE MARK LAW PROCEDURE.

[September 24, 1903.]

PORFIRIO DIAZ, constitutional President of the United States of Mexico, to its inhabitants, know ye:

That in the exercise of the constitutional faculty of the Executive, and in conformity with the prescriptions of the law of the 25th of August of the present year, I have seen fit to issue the following regulations of the trade mark law.

ARTICLE 1. The registration of trade marks and notices shall be made by the Patent and Trade Mark Office at the request of the interested party.

ART. 2. For each registration of trade marks and notices sought to be made a separate application shall be formulated, according to the corresponding annexed model.

ART. 3. The Patent and Trade Mark Office shall issue a receipt for the documents and cliché to the interested party, stating in said receipt the day and hour in which they were delivered and the corresponding serial number.

ART. 4. The Patent and Trade Mark Office shall make an official examination of the documents in accordance with what article 10 of the law provides.

ART. 5. If the result of the official examination referred to in article 10 of the law, be satisfactory, the interested party shall present to the Patent and Trade Mark Office, within the term which for this purpose may be indicated to him in the receipt issued for the documents, the stamp with the restamp "Marcas" (Marks) corresponding to the payment of the fees, and he shall duly cancel said stamp on the document that may

be indicated to him, with the understanding that if he fails to do so within the term fixed or designated in the receipt issued for the documents, it shall be understood that the case has been abandoned.

If the Patent and Trade Mark Office finds that the documents presented are not prepared in due form, it shall make known the fact in writing to the interested party, so that the latter may replace them or, should he deem it convenient, proceed in the manner indicated in the corresponding part of article 39, Chapter III, of the law.

ART. 6. The descriptions of the trade marks the registration of which is sought, shall be authorized by the signature of the interested party or that of his attorney, and, furthermore, in case said description comprises several pages or folios, each one of them must be rubricated or signed on the margin.

ART. 7. All the applications and other documents presented for the registration of a trade mark or notice shall be type-written only on one side of the paper, in indelible black ink or blue or dark-violet ink. The paper that shall be used must have the following dimensions: 330 millimeters in length, 215 millimeters width, and a margin of 54 millimeters on the left side.

ART. 8. The length or width of the cliché for a trade mark or notice, shall be no less than 15 millimeters and no greater than 100 millimeters, and the height thereof must be 24 millimeters.

When a trade mark is formed by several separated parts, one cliché shall be sent for each of said parts.

The colors shall be indicated in the cliché as far as may be possible, as shown in the corresponding annexed model.

ART. 9. The copies of the original trade mark referred to in article 3, Section IV, of the law, shall be free from erasures, corrections, or modifications.

ART. 10. When metal objects or other substances constitute a trade mark or a part thereof, there shall be sent, in addition, twelve copies of its illustration printed on paper.

When the trade mark is to be fixed by means of lead seals, by fire, or by any other process, there shall also be sent twelve copies thereof printed on paper.

ART. 11. Even though several registrations be solicited in

the name of the same person, the petitioner (applicant) must prove his personality (identity) in each petition (application).

When anyone presents himself as a manager or representative of a society, company, or legal entity, he must prove his identity by the means provided for that purpose by the law.

In case the solicitor (petitioner) should act as an attorney and should prove this capacity by means of a power of attorney, he shall exhibit only certified copy thereof in such part of it as may be considered pertinent.

ART. 12. The certificate of registration of a trade mark, besides the provisions of the law, must contain the following:

- I. Ordinal number of the trade mark;
- II. Date and hour in which the application and annexed documents were presented;
- III. The name of the owner of the trade mark;
- IV. The seal of the Patent and Trade Mark Office;
- V. A facsimile of the registered trade mark; and
- VI. A description of said trade mark.

ART. 13. In case the certificate of registration should be lost or destroyed, it may be replaced at the expense of the owner of the trade mark. In order to do this he shall present a petition and three pesos' worth of stamps with the restamp "Marcas" (Marks), which he shall adhere to the document that may be indicated to him and shall cancel them thereon. In the new certificate shall be stated that it is a duplicate.

ART. 14. In order to solicit the registration of the transfer of a trade mark, a petition shall be made (by the corresponding annexed model) to the Patent and Trade Mark Office, in which shall be stated:

- I. The number of the registered trade mark;
- II. The name of the old or former owner;
- III. The name of the trade mark, should it have one;
- IV. The products protected by it; and
- V. The name of the new proprietor.

To said application he shall accompany three pesos' worth of stamps with the restamp "márcas" (marks), which he shall cancel on the document that may be indicated to him. With said petition shall be sent a facsimile of said trade mark.

In order to justify the acquisition of a trade mark or notice,

the original and a copy of the respective deed shall be sent. The former shall be returned to the interested party, and the latter—that is to say, the copy—shall form an integral part of the proceedings.

ART. 15. In order to obtain the renewal of the registration of a trade mark or notice, an application shall be presented in accordance with the corresponding annexed model, accompanying the stamps, with the restamps “marcas” (marks)—which should correspond to the payment of the fees—which stamps the interested party shall cancel on the document that may be indicated to him, and he shall also present a copy of the trade mark or notice. The petition and payment shall be made within the first six months of the last year of the term for which the registration was granted.

ART. 16. When the renewal of the registration of a trade mark or notice is solicited, after the term to which the foregoing article refers has expired, to the petition shall be accompanied a stamp, with the restamp “marcas” (marks), which should correspond to the payment of the registration fees, and besides as many stamps with equal restamp and equal value as the number of years or fractions of a year may have elapsed since the expiration of the alluded term.

ART. 17. In order to obtain the registration of a commercial notice, there shall be presented at the Patent and Trade Mark Office a petition accompanied by the following:

- I. A cliché of the notice;
- II. Twelve copies of the notice or advertisement just as it is going to be used; and
- III. Twelve copies of the same notice printed on paper, when said notice is going to circulate, made in crystal (glass) sheet (plate), leather, pasteboard, etc.

The petition shall be made in accordance with the corresponding annexed model, and 3 pesos' worth of stamps, with the restamp “marcas” (marks), shall be accompanied, if the registration is for five years, and 4 pesos' worth of stamps, if the registration is for ten years, which stamps the interested party or his representative shall cancel on the document that may be indicated to him.

ART. 18. The dimensions of the cliché of a commercial

notice shall be the same as those fixed for the trade mark in article 8 of these regulations.

ART. 19. The prorogation of the registration of a notice, to which article 80 of the law refers, shall be solicited within the penultimate six months of the term for which it was granted. The petition shall be formulated according to the corresponding annexed model, accompanying 4 pesos' worth of stamps with the restamp "marcas" (marks) for each prorogation of five years, which stamps he shall cancel on the document that may be indicated to him. The interested party shall send a printed copy of the notice.

ART. 20. For making the publication of a commercial name, as expressed in article 74 of the law, the interested party shall present a petition which he shall formulate according to the corresponding annexed model, accompanying thereto a stamp of the value of 1 peso, with the restamp "marcas" (marks), which stamp he shall cancel on the document that may be indicated to him.

ART. 21. In every step taken with respect to a registered trade mark or notice, even though it be in order to ask for copies, duplicates, certificates, etc., in the first place it shall be noted the number of the trade mark or notice to which the writing or memorial refers.

ART. 22. The interested parties who, in conformity with article 38 of the law, should wish to publish some decision relating to trade marks or notices, shall request it in writing to the Patent and Trade Mark Office, and shall personally present one stamp of the value of 1 peso, with the restamp "marcas" (marks), which stamp shall be canceled on the document that may be indicated to them.

ART. 23. The Patent and Trade Mark Office shall fix the prices at which it will be able to sell to the public printed copies or reproductions of the registered trade marks and notices and of the corresponding descriptions that may have been registered.

ART. 24. In compliance with article 87 of the law the interested parties shall have to make special petition to the Patent and Trade Mark Office and to send twelve copies of the trade mark and the corresponding cliché.

ART. 25. Any document that does not fulfill the require-

ments indicated in the law and in these regulations shall be replaced or renewed at the expense of the interested party.

ART. 26. Under no pretext whatever shall documents, drawings, stamps, cliché, or samples, which for the purpose of obtaining the registration of a trade mark or notice may have been delivered to the Patent and Trade Mark Office, be returned.

ART. 27. The public may examine the registered trade marks and notices (advertisements) at the hours fixed for that purpose by the Patent and Trade Mark Office.

Therefore I order that said regulations be printed, published, circulated, and duly complied with.

Given at the Palace of the Executive Power of the Union, in Mexico, on the 24th of September, 1903.

PORFIRIO DIAZ.

## NEWFOUNDLAND.

## CONSOLIDATED STATUTES.

[SECOND SERIES.]

## CHAPTER 109.

*Of patents.*

1. Whenever any person shall apply to the Governor, alleging that he hath invented and discovered any new and useful art, machine, manufacture or composition of matter not heretofore known or used, and shall, by petition to the Governor, signify his desire to obtain an exclusive property in such new invention and discovery, and shall pray that a patent be granted for the same, the Governor in Council may direct letters patent under the great seal of the colony to be issued, which letters patent shall recite the allegations and suggestions of the said petition, and shall therein give a short description of the said invention and discovery; and thereupon shall grant to such person, his executors, administrators or assigns, for a term not exceeding fourteen years, the full and exclusive right and liberty of making, constructing and using, and vending to others to be used the said new invention or discovery; which letters patent shall be good and available to the grantee therein named, by force of this chapter, and shall be recorded in the office of the Colonial Secretary in a book to be kept for that purpose, and shall be delivered to the patentee; and the Governor in Council may insert in any such letters patent a provision extending the operation thereof for a further term of seven years. Before the great seal of this island shall be affixed to any such letters patent, or the same shall be issued or signed as aforesaid, such letters patent shall be delivered to Her Majesty's Attorney General, who shall examine the same, and shall, if he finds the same conformable to this chapter, certify accordingly, and return the same within fifteen days into the office of the Colonial Secretary, to be issued and signed.

2. Where any such letters patent shall be obtained by any person, and thereafter any other person shall discover or make

any improvement in the principle or process of any such art, machine, or composition of matter for which such patent hath been granted, and shall make application for and obtain letters patent under this chapter for the exclusive right of such improvement, the person who shall obtain and procure letters patent for any such improvement shall not make, use or vend the original invention or discovery, nor shall the person who shall have procured letters patent for the original invention or discovery, make, use or vend any such improvement: Provided, that simply changing the form or the proportions of any machine or composition of matter, in any degree, shall not be deemed a discovery or improvement within the meaning of this chapter.

3. Any person may obtain from the office of the Colonial Secretary a copy of any such letters patent, or of the petition whereon the same were issued, or of any paper connected therewith, or any drawing relating to the same, on payment for such copy of such fees as are now payable at the office of the Colonial Secretary for copies of other documents.

4. Before any person shall receive any letters patent under this chapter such person shall make oath in writing that he doth verily believe that he is the inventor or discoverer of the art, machine, composition of matter, or improvement for which he solicits letters patent, and that such invention or discovery hath not, to the best of his knowledge or belief, been known or used in this colony or in any other country, which oath shall be delivered with the petition for such letters patent.

5. Together with such petition and oath, before any person shall obtain any letters patent, as aforesaid, such person shall also deliver into the office of the Colonial Secretary a written description of his invention, and of the manner of using or process of compounding the same, in such full, clear and exact terms as to distinguish the same from all other things before known, and to enable any person skilled in the art or science of which it is a branch, or with which it is most nearly connected, to make, compound and use the same; and in case of any machine, shall deliver a model thereof into the office of the Colonial Secretary, and shall explain the principle and the several modes in which such person hath contemplated the application of that principle or character by which it may be distinguished from

other inventions; and shall accompany the whole with drawings and written references, where the nature of the case admits of drawings, or with specimens of the ingredients, and of the composition of matter, sufficient in quantity for the purpose of experiment, where the invention is of a composition of matter, which description, signed by such person and attested by two witnesses, shall be filed in the office of the Colonial Secretary, and copies thereof, certified under his hand, shall be evidence in all Courts where any matter or thing touching or concerning the said letters patent shall come into question: Provided, that where, from the complicated nature of any machinery, the cost of a model thereof may be so great as to prevent any ingenious but poor person from obtaining patents for his useful inventions, the Governor in Council may dispense with the delivery of such model into the office of the Colonial Secretary previous to the granting of any such patent; and the requirements of this chapter being in all other respects complied with, such person shall be entitled to such patent as if such model had been so lodged.

6. After the expiration of one week from the date of the delivery into the office of the Colonial Secretary of the petition, oath and description of invention, as prescribed in sections 1, 4 and 5 of this chapter, and until the expiration of six months, from said date of delivery, the applicant for letters patent for any invention shall have the like privileges and rights as if letters patent under the provisions of the said chapter had been sealed and delivered on the date of said delivery.

7. Any patentee, his executors or administrators, may assign all his right, title and interest in the said invention and discovery in the letters patent to him granted, to any person, and the assignee thereof having recorded the said assignment in the office of the Colonial Secretary, shall thereafter stand in the place and stead of the original patentee, as well as to all right, privilege and advantage, as also in respect of all liability and responsibility as to the said letters patent, and the invention and discovery thereby secured; and in like manner shall the assignees of any such assignee stand in the place and stead of the original patentee or inventor.

8. Whenever in any case any letters patent shall be or shall have been granted to any person under and by virtue of this

chapter, and any person, without the consent of the patentee, his executors, administrators or assigns, first had and obtained in writing, shall make, devise, use, or sell the thing, invention or discovery whereof the exclusive right is secured to the said patentee by such letters patent, such person so offending shall forfeit and pay to the said patentee, his executors, administrators, or assigns, a sum equal to three times the actual damage sustained by such patentee, his executors, administrators or assigns, from or by reason of such offense, which sum may be recovered, together with costs, by action founded on this chapter, in the Supreme Court.

9. The defendant in such action may plead the general issue, and give this chapter and any special matter in evidence, tending to prove that the specification filed by the plaintiff does not contain the whole truth relative to the invention or discovery therein alleged to have been made by the said plaintiff, or that it contains more than is necessary to produce the described effect, (which concealment or addition shall fully appear to have been made for the purpose of deceiving the public,) or that the thing, invention or discovery thus secured by letters patent as aforesaid was not originally discovered by the patentee, but had been in use or had been described in some public work anterior to the supposed invention or discovery of the said patentee or that he had surreptitiously obtained letters patent as aforesaid for the invention or discovery of some other person; in either of which cases, upon proof thereof, a verdict shall be returned and a judgment shall be entered for the said defendant with costs, and the said letters patent shall thereupon be and shall by the said Court be adjudged void.

10. No applicant shall be deprived of his right to a patent in this colony for his invention by reason of his having previously taken out letters patent therefor in any other country: Provided that such invention shall not have been introduced into public and common use in this colony prior to the application for a patent therein, and the patent granted in this colony shall not continue in force after the expiration of the patent granted elsewhere; and where more than one such patent or like privilege is obtained abroad, then immediately upon the expiration or determination of the term which shall first expire or be determined of such several patents or like privileges, the

patent granted in this colony shall cease to be in force; and no letters patent for or in respect of any invention for which any such patent or like privilege as aforesaid shall have been obtained elsewhere, and which shall be granted in this colony, after the expiration of the term for which such patent or privilege was granted or was in force, shall be of any validity.

11. Letters patent may be issued by the Governor in Council to the assignee of any person who may have taken out letters patent for his invention or discovery in any other country, but not for any invention or discovery made abroad for which no letters patent have been there obtained: Provided, that the invention or discovery so assigned shall not have been introduced into public and common use in the colony prior to the application for a patent; and that the assignee of such foreign patent shall file, with his application, the assignment duly proved, under which he claims a patent in this colony, and an affidavit setting forth the date of the patent abroad, that the article thereby patented has not been in public and common use in this colony, and that he is assignee for a good consideration.

12. Any letters patent which may be taken out under or by virtue of this chapter, and which shall not have been brought into operation within two years next ensuing from and after the date thereof, shall, at the expiration of the said period of two years, be void.

13. No letters patent shall be granted under or by virtue of this chapter until notice shall have been published in the *Royal Gazette*, and one other of the newspapers of this colony, for at least four weeks, of the intention of the applicant to apply for such letters patent; and such notice shall contain, in general terms, the description of invention for which such letters patent shall be desired.

14. If by mistake, accident or inadvertence, and without any wilful default or intent to defraud or mislead the public, a patentee shall in his specification have claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, but of which he was not the original or first inventor, and shall have no just or legal right to claim the same, his patent in such case shall be valid for so much of the invention or discovery as shall be actually

his own, provided it is a material and substantial part of the thing patented, and be plainly distinguishable from other parts patented without right; and every such patentee and his legal representatives, whether holding the whole or a particular interest in the patent, may maintain suits at law or in equity for any infringement of such part of the same as is actually the invention or discovery of the patentee, although his specification may embrace more than he has a legal right to claim; but if in such case the plaintiff shall obtain a verdict or judgment, he shall not be entitled to costs, unless before the commencement of the suit he shall have filed in the office of the Colonial Secretary a disclaimer, attested by a witness, of that part of the thing patented which was claimed without right; and no person bringing a suit shall be entitled to the benefits of this section if he shall have unreasonably neglected or delayed to record his disclaimer.

15. If through inadvertence, accident or mistake, a patentee shall have made his specification too broad, by claiming more than that of which he was the original or first inventor (some material and substantial part of the thing patented being justly and truly his own), such patentee or his legal representatives may disclaim the excess; the disclaimer shall be in writing, and shall state the extent of interest in the patent held by the party making the same; it shall be attested by a witness, and be recorded in the office of the Colonial Secretary; thereafter such disclaimer shall be considered as part of the original specification, to the extent of the interest possessed by the party making the same, or by those claiming under him; but no such disclaimer shall affect any action or suit pending at the time of its being recorded, except so far as may relate to the question of unreasonable neglect or delay in recording the same.

16. If any patent shall become inoperative or invalid by reason of a defective or insufficient description or specification or by reason of the patentee claiming in his specification, as his own invention, more than he had a right to claim, and the error has arisen from inadvertence, accident or mistake, and without any fraudulent or deceptive intention, the Governor in Council upon the surrender of such patent, and upon petition therefor, may cause a new patent to be issued to the patentee for the residue of the term mentioned in the first patent, in accord-

ance with the patentee's amended description and specification. In case of his death or the assignment by him of the original patent or any fractional interest therein, the right shall vest in his legal representatives, to the extent of their respective interests in such patent; and the patent so re-issued, together with the amended description and specification, shall have the same effect and operation in law as though the same had been originally filed in such amended form before the issuing of the original patent.

17. If an original patentee shall be desirous of adding a description and specification of an improvement upon his original invention or discovery, made or discovered by him subsequent to the date of his patent, he may, upon the like proceedings being had in all respects as in the case of an original application, have the same annexed to his original description and specification; and the Colonial Secretary shall certify upon such annexed description and specification the time of its being annexed and recorded; and thereafter it shall have the same effect in law as if it had been embraced in the original description and specification, and had been recorded therewith.

18. No patent for any invention or discovery granted in England or elsewhere out of the colony, and extending to the colonies, shall be of force and effect in this colony until copies of the original specification and drawings filed, or duplicates of the models lodged in England or elsewhere out of the colony, upon which such patent was there obtained, shall be filed or lodged in the office of the Colonial Secretary, who shall grant a certificate of the lodging or filing the same.

19. All oaths required by this chapter may be taken in this colony before a Judge of the Supreme Court or a commissioner for taking affidavit in the same; and outside this colony before a commissioner of the Supreme Court, a Judge of a Court of Record, the mayor or chief magistrate of any city or town, a justice or British ambassador, consul, vice-consul or consular agent; and the attestation with the date thereof shall, when made before a Judge of a Court of Record or a mayor of any city or town, be certified under the seal of such court, city or town, and when made before a justice or British ambassador, consul, vice-consul or consular agent, the official character of such justice, British ambassador, consul, vice-consul or con-

sular agent shall be certified under the hand and seal of a notary public.

20. Any person who may take out letters patent under this chapter shall pay for the same such fees as are charged on documents issued under the great seal of this colony, and shall in addition deposit with the Colonial Secretary the sum of twenty-five dollars, to be by him paid to the Receiver General for the use of the colony.

ANNO SECUNDO

EDWARDI VII. REGIS.

CHAPTER II.

*An Act to amend Chapter 109 of the Consolidated Statutes (Second Series), entitled "Of Patents."*

[PASSED APRIL 22, 1902.]

Section 1.—Amendment of Con. Stat., cap. 109, sec. 19.

Be it enacted by the Governor, the Legislative Council and House of Assembly, in Legislative Session convened, as follows:

1. Section 19 of chapter 109 of the Consolidated Statutes (Second Series), entitled "Of Patents," is hereby amended by striking out therefrom, at the end thereof, the words following: "And when made before a Justice or British Ambassador, Consul, Vice-Consul, or Consular Agent, the official character of such Justice, British Ambassador, Consul, Vice-Consul, or Consular Agent, shall be certified under the hand and seal of a Notary Public."

CONSOLIDATED STATUTES.

(Second Series.)

CHAPTER 112.

OF TRADE MARKS, AND THE REGISTRATION THEREOF.

1. (1.) Every person who—

(a.) Forges any trade mark; or

(b.) Falsely applies to goods any trade mark, or any mark so nearly resembling a trade mark as to be calculated to deceive; or

- (c.) Makes any die, block, machine or other instrument for the purpose of forging, or of being used for forging, a trade mark; or
- (d.) Applies any false trade description to goods; or
- (e.) Disposes of, or has in his possession, any die, block, machine, or other instrument for the purpose of forging a trade mark; or
- (f.) Causes any of the things above in this section mentioned to be done;

shall, subject to the provisions of this chapter, and unless he proves that he acted without intent to defraud, be guilty of any offence against this chapter.

- (2.) Every person who sells, or exposes for sale, or has in his possession for sale, or for any purpose of trade or manufacture, any goods or things to which any forged trade mark or false trade description is applied, or to which any trade mark, or mark so nearly resembling a trade mark as to be calculated to deceive, is falsely applied, as the case may be, shall be guilty of an offence against this chapter, unless he proves—

- (a.) That having taken all reasonable precautions against committing an offence against this chapter, he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the trade mark, mark, or trade description; and
- (b.) That on demand made by, or on behalf of the prosecutor, he gave all information in his power with respect to the persons from whom he obtained such goods or things; or

- (c.) That otherwise he had acted innocently.
- (3.) Every person guilty of an offence against this chapter shall be liable—

- (1.) On conviction on indictment to imprisonment, with or without hard labour, for a term not exceeding two years, or to fine, or to both imprisonment and fine; and
- (2.) On summary conviction to imprisonment, with or without hard labour, for a term not exceeding four months, or to a fine not exceeding \$100; and in the case of a second or subsequent conviction to imprisonment, with

or without hard labour, for a term not exceeding six months, or to a fine not exceeding \$200; and

- (3.) In any case, to forfeit to Her Majesty every chattel, article, instrument, or thing, by means of or in relation to which the offence has been committed.
- (4.) The Court before which any person is convicted under this section may order any forfeited articles to be destroyed, or otherwise disposed of, as the Court thinks fit.
- (5.) If any person feels aggrieved by any conviction made by a Court of summary jurisdiction, he may appeal therefrom to the Supreme Court.
- (6.) Any offence for which a person is, under this chapter, liable to punishment on summary conviction, may be prosecuted, and any article liable to be forfeited under this chapter by a Court of summary jurisdiction, may be forfeited: Provided that a person charged with an offence under this section, before a Court of summary jurisdiction, shall on appearing before the Court, and before the charge is gone into, be informed of his right to be tried on indictment, and if he requires, to be tried accordingly.

**2. (1.)** For the purposes of this chapter—

The expression “trade mark” means a trade mark registered in the register of trade marks kept under the provisions of this chapter, and includes any trade mark which, either with or without registration, is protected by law in any British possession or foreign state, to which the provisions of the one hundred and third section of the Imperial “Patents, Designs and Trade Marks’ Act, 1883,” are under Order in Council for the time being applicable.

The expression “trade description” means any description, statement or other indication, direct or indirect:

- (a.) As to the number, quantity, measure, gauge or weight of any goods; or
- (b.) As to the place or country in which any goods were made or produced; or
- (c.) As to the mode of manufacturing or producing any goods; or

- (d.) As to the material of which any goods are composed ; or
- (e.) As to any goods being the subject of an existing patent privilege or copyright,

and the use of any figure, word or mark which, according to the custom of the trade, is commonly taken to be an indication of any of the above matters, shall be deemed to be a trade description within the meaning of this chapter.

The expression "false trade description" means a trade description which is false in a material respect as regards the goods to which it is applied, and includes every alteration of a trade description, whether by way of addition, effacement, or otherwise, where that alteration makes the description false in a material respect, and the fact that a trade description is a trade mark, or part of a trade mark, shall not prevent such trade description being a false trade description within the meaning of this chapter.

The expression "goods" means anything which is the subject of trade, manufacture, or merchandize;

The expressions "person," "manufacturer," "dealer," or "trader," and "proprietor," include any body of persons corporate or incorporate;

The expression "name" includes any abbreviation of a name.

(2.) The provision of this chapter respecting the application of a false trade description to goods, shall extend to the application to goods of any such figures, words, or marks, or arrangement, or combination thereof, whether including a trade mark or not, as are reasonably calculated to lead persons to believe that the goods are the manufacture or merchandize of some person other than the person whose manufacture or merchandize they really are.

(3.) The provisions of this chapter respecting the application of a false trade description to goods, or respecting goods to which a false trade description is applied, shall extend to the application to goods of any false name or initials of a person, and to goods with the false name or initials of a person applied, in like manner as if such name or initials were a trade description, and for the purpose of this enactment the expres-

sion false name or initials means, as applied to any goods, any name or initials of a person which—

- (a.) Are not a trade mark, or part of a trade mark; and
- (b.) Are identical with, or a colourable imitation of the name or initials of a person carrying on business in connection with goods of the same description, and not having authorized the use of such name or initials; and
- (c.) Are either those of a fictitious person, or of some person not *bona fide* carrying on business in connection with such goods.

3. A person shall be deemed to forge a trade mark who either—

- (a.) Without the assent of the proprietor of the trade mark, makes that trade mark, or a mark so nearly resembling that trade mark, as to be calculated to deceive; or
- (b.) Falsifies any genuine trade mark, whether by alteration, addition, effacement, or otherwise;

and any trade mark or marks so made or falsified, is in this chapter referred to as a forged trade mark. Provided that in any prosecution for forging a trade mark, the burden of proving the assent of the proprietor shall lie on the defendant.

4. (1.) A person shall be deemed to apply a trade mark, or mark or trade description to goods, who—

- (a.) Applies it to the goods themselves; or
- (b.) Applies it to any covering, label, reel, or other thing in or with which the goods are sold, or exposed, or had in possession for any purpose of sale, trade or manufacture; or
- (c.) Places, encloses, or annexes any goods which are sold, or exposed, or had in possession for any purpose of sale, trade or manufacture in, with, or to any covering, label, reel, or other thing to which a trade mark or trade description has been applied; or
- (d.) Uses a trade mark, or mark, or trade description in any manner calculated to lead to the belief that the goods in connection with which it is used are designated or described by that trade mark or mark description.

(2.) The expression “covering” includes any stopper, cask, bottle, vessel, box, cover, capsule, case, frame or wrap-

per; and the expression "label" includes any band or ticket.

A trade mark, or mark, or trade description, shall be deemed to be applied whether it is woven, impressed, or otherwise worked into, or annexed, or affixed to the goods, or to any covering, label, reel, or other thing.

(3.) A person shall be deemed to falsely apply to goods a trade mark or marks, who, without the assent of the proprietor of a trade mark, applies such trade mark, or a mark so nearly resembling it as to be calculated to deceive; but in any prosecution for falsely applying a trade mark or mark to goods, the burden of proving the assent of the proprietor shall lie on the defendant.

5. Where a defendant is charged with making any die, block, machine, or other instrument, for the purpose of forging, or being used for forging, a trade mark, or with falsely applying to goods any trade mark, or any mark so nearly resembling a trade mark, as to be calculated to deceive, or with applying to goods any false trade description, or causing any of the things in this section mentioned to be done, and proves—

- (a.) That in the ordinary course of his business he is employed, on behalf of other persons, to make dies, blocks, machines, or other instruments for making, or being used in making trade marks, or as the case may be, to apply marks or descriptions to goods, and that in the case which is a subject of the charge, he was so employed by some person resident in Newfoundland, and was not interested in the goods by way of profit or commission dependent on the sale of such goods; and
- (b.) That he took reasonable precautions against committing the offence charged; and
- (c.) That he had, at the time of the commission of the alleged offence, no reason to suspect the genuineness of the trade mark, mark or trade description; and
- (d.) That he gave to the prosecutor all the information in his power with respect to the persons on whose behalf the trade mark, omit or desription was applied, he shall be discharged from the prosecution, but shall be liable to

pay the costs incurred by the prosecutor, unless he has given due notice to him that he will rely on the above defence.

6. Where a watch case has thereon any words or marks which constitute, or are by common repute considered as constituting a description of the country in which the watch was made, and the watch bears no description of the country where it was made, those words or marks shall *prima facie* be deemed to be a description of that country within the meaning of this chapter, and the provisions of this chapter with respect to goods to which a false trade description has been applied, and with respect to selling or exposing for, or having in possession for, sale, or any purpose of trade or manufacture, goods with a false trade description, shall apply accordingly, and for the purpose of this section the expression "watch" means all that portion of a watch which is not the watch case.

7. In any indictment, pleading, proceeding, or document, in which any trade mark or forged trade mark is intended to be mentioned, it shall be sufficient, without further description and without any copy or facsimile, to state that trade mark or forged trade mark to be a trade mark or forged trade mark.

8. In any prosecution for an offence against this chapter—

(1.) A defendant and his wife, or her husband, as the case may be, may, if the defendant thinks fit, be called as a witness, and, if called, shall be sworn and examined, and may be cross-examined and re-examined in like manner as any other witness.

(2.) In the case of imported goods, evidence of the port of shipment shall be *prima facie* evidence of the place or country in which the goods were made or produced.

9. Any person who, being within Newfoundland, procures, counsels, aids, abets, or is accessory to the commission, without Newfoundland of any act which, if committed in Newfoundland, would under this chapter be a misdemeanor, shall be guilty of that misdemeanor as principal, and be liable to be indicted, proceeded against, tried, and convicted in any place in Newfoundland in which he may be, as if the misdemeanor had been there committed.

10. (1.) Where, upon information of an offence against this chapter, a Justice has issued either a summons requiring the de-

fendant charged by such information to appear to answer to the same, or a warrant for the arrest of such defendant, and either the said Justice on or after issuing the summons or warrant, or any other Justice is satisfied by information on oath that there is reasonable cause to suspect that any goods or things by means of, or in relation to, which such offence has been committed, are in any house or premises of the defendant, or otherwise in his possession, or under his control in any place, such Justice may issue a warrant under his hand, by virtue of which it shall be lawful for any constable, named or referred to in the warrant, to enter such house, premises, or place, at any reasonable time by day, and to search there for, and seize, and take away, those goods or things; and any goods or things seized under any such warrant shall be brought before a Court of summary jurisdiction for the purpose of its being determined whether the same are or are not liable to forfeiture under this chapter.

- (2.) If the owner of any goods or things which, if the owner thereof had been convicted, would be liable to forfeiture under this chapter, is unknown or cannot be found, an information or complaint may be laid for the purpose only of enforcing such forfeiture, and a court of summary jurisdiction may cause notice to be advertised, stating that unless cause is shown to the contrary at the time and place named in the notice, such goods or things will be forwarded, and at such time and place the Court, unless the owner or any person on his behalf, or other person interested in the goods or things, shows cause to the contrary, may order such goods or things, or any of them, to be forfeited.
- (3.) Any goods or things forfeited under this section, or under any other provision of this chapter, may be destroyed or otherwise disposed of in such manner as the Court by which the same are forfeited may direct, and the Court may, out of any proceeds which may be realized by the disposition of such goods (all trade marks and trade descriptions being first obliterated), award to any innocent party any loss he may have innocently sustained in dealing with such goods.

11. The Imperial act of the session of the twenty-second and twenty-third years of the reign of her present Majesty, chapter

seventeen, entitled "An Act to prevent vexatious indictments for certain misdemeanors," shall apply to any offence punishable on indictment under this chapter in like manner as if such offence were one of the offences specified in section one of that act.

12. On any prosecution under this chapter, the Court may order costs to be paid to the defendant by the prosecutor, or to the prosecutor by the defendant, having regard to the information given and the conduct of the defendant and prosecutor respectively.

13. No prosecution for an offence against this chapter shall be commenced after the expiration of three years next after the commission of the offence, or one year next after the discovery thereof by the prosecutor whichever expiration first happens.

14. Whereas it is expedient to make further provision for prohibiting the importation of goods which if sold would be liable to forfeiture under this chapter, be it therefore enacted as follows:

- (1.) All such goods, and also all goods of foreign manufacture, bearing any name or trade mark being or purporting to be the name or trade mark of any manufacturer, dealer or trader in the United Kingdom or Newfoundland, unless such name or trademark is accompanied by a definite indication of the country in which the goods were made or produced, are hereby prohibited to be imported into Newfoundland, and subject to the provisions of this section shall be included among goods prohibited to be imported as if they were specified in section 105 of chapter eight of these consolidated statutes.
- (2.) Before detaining any such goods, or taking any further proceedings with a view to the forfeiture thereof under the law relating to the customs, the Board of Revenue may require the regulations under this section, whether as to information, security, conditions or other matters, to be complied with, and may satisfy themselves in accordance with those regulations that the goods are such as are prohibited by this section to be imported.
- (3.) The Board of Revenue may from time to time make, revoke and vary regulations, either general or special, respecting the detention and forfeiture of goods, the

importation of which is prohibited by this section, and the conditions, if any, to be fulfilled before such detention and forfeiture, and may by such regulations determine the information, notices and security to be given, and the evidence requisite for any of the purposes of this section, and the mode of verification of such evidence.

- (4.) Where there is on any goods a name which is identical with or a colourable imitation of the name of a place in the United Kingdom or Newfoundland, that name, unless accompanied by the name of the country in which such place is situated, shall be treated for the purposes of this section as if it were the name of a place in Newfoundland.
- (5.) Such regulations may apply to all goods, the importation of which is prohibited by this section, or different regulations may be made respecting different classes of such goods, or of offences in relation to such goods.
- (6.) The Board of Revenue, in making and administering the regulations, and generally in the administration of this section, whether in the exercise of any discretion or opinion, or otherwise, shall act under the control of the Governor in Council.
- (7.) The regulations may provide for the informant reimbursing the Board of Revenue all expenses and damages incurred in respect of any detention made on his information, and of any proceedings consequent on such detention.
- (8.) All regulations under this subject shall be published in the *Royal Gazette*.
- (9.) This section shall have effect as if it were part of chapter eight of the consolidated statutes.

**15.** On the sale, or in the contract for the sale, of any goods to which a trade mark, or mark, or trade description, has been applied, the vendor shall be deemed to warrant that the mark is a genuine trade mark and not forged, or falsely applied, or that the trade description is not a false trade description within the meaning of this chapter, unless the contrary is expressed in some writ-

ing, signed by or on behalf of the vendor and delivered at the time of the sale or contract to and accepted by the vendee.

16. Where, at the passing of this chapter, a trade description is lawfully and generally applied to goods of a particular class, or manufactured by a particular method, to indicate the particular class or method of manufacture of such goods, the provisions of this chapter with respect to false trade descriptions, shall not apply to such trade descriptions when so applied: Provided that where such trade descriptions includes the name of a place or country, and is calculated to mislead as to the place or country where the goods to which it is applied were actually made or produced, and the goods are not actually made or produced in that place or country, this section shall not apply unless there is added to the trade description, immediately before or after the name of that place or country, in an equally conspicuous manner with that name, the name of the place or country in which the goods were actually made or produced, with a statement that they were made or produced there.

17. (1.) This chapter shall not exempt any person from any action, suit, or other proceeding, which might, but for the provisions of this chapter, be brought against him.

(2.) Nothing in this chapter shall entitle any person to refuse to make a complete discovery, or to answer any question or interrogatory in any action, but such discovery or answer shall not be admissible in evidence against such person in any prosecution for an offence against this chapter.

(3.) Nothing in this chapter shall be construed so as to render liable to any prosecution or punishment any servant of a master resident in Newfoundland, who *bona fide* acts in obedience to the instructions of such master, and on demand made by or on behalf of the prosecutor, has given full information as to his master.

18. Any person who falsely represents that any goods are made by a person holding a royal warrant, or for the service of Her Majesty, or any of the royal family, or any government department, shall be liable on summary conviction to a penalty not exceeding one hundred dollars.

19. A register of trade marks shall be kept at the office of the Colonial Secretary, in which the proprietor of any trade mark

may have the same registered on complying with the provisions of this chapter.

20. (1.) For the purposes of this chapter, a trade mark must consist of or contain at least one of the following essential particulars:

- (a.) A name of an individual or firm printed, impressed or woven in some particular or distinctive manner; or
- (b.) A written signature or copy of a written signature of the individual or firm applying for registration thereof as a trade mark; or
- (c.) A distinctive device, mark, brand, heading, label or ticket; or
- (d.) An invented word or invented words; or
- (e.) A word or words having no reference to the character or quality of the goods, and not being a geographical name.

(2.) There may be added to any one or more of the essential particulars mentioned in this section, any letters, words or figures, or of any of them; but the applicant for registration of any such additional matter must state in his application the essential particulars of the trade mark, and must disclaim in his application any right to the exclusive use of the added matter, and a copy of the statement and disclaimer shall be entered on the register.

(3.) Provided as follows:

- (a.) A person need not under this section disclaim his own name or the foreign equivalent thereof, or his place of business; but no entry of any such name shall affect the right of any owner of the same name to use that name or the foreign equivalent thereof;
- (b.) Any special and distinctive word or words, letter, figure or combination of letters or figures, or of letters and figures used as a trade mark before the coming into force of these Consolidated Statutes, may be registered as a trade mark under this chapter.

21. A trade mark must be registered for particular goods or classes of goods.

22. A trade mark may be registered in any colour or colours and such registration shall (subject to the provisions of this chap-

ter) confer on the registered owner the exclusive right to use the same in that or any other colour or colours.

**23.** The Colonial Secretary, subject to the approval of the Governor in Council, may make rules and regulations, and adopt forms for the purposes of this chapter as respects trade marks, and all documents executed according to the same, and accepted by the Colonial Secretary, shall be deemed to be valid so far as relates to official proceeding under this chapter.

**24.** The proprietor of a trade mark may have it registered on forwarding to the Colonial Secretary, together with the fee herein-after mentioned, a drawing and description in duplicate of such trade mark, and a declaration that the same was not in use to his knowledge by any other person than himself at the time of his adoption thereof.

**25.** (1.) Before any action is taken in relation to an application for registering a trade mark, the following fees shall be paid to the Colonial Secretary, that is to say:

On every application to register a trade mark, including

|                   |         |
|-------------------|---------|
| certificate ..... | \$20.00 |
|-------------------|---------|

|   |      |
|---|------|
| For the recording of an assignment..... | 1.00 |
|---|------|

Such fees to be paid by the Colonial Secretary to the Receiver General for the use of the colony.

(2.) If the Colonial Secretary refuses to register the trade mark for which application is made, the fee shall be returned to the applicant or his agent, less five dollars, which shall be retained as compensation for office expenses.

**26.** The Colonial Secretary may object to register any trade mark in the following cases:

- (1.) If the trade mark proposed for registration is identical with or resembles a trade mark already registered.
- (2.) If it appears that the trade mark is calculated to deceive or mislead the public.
- (3.) If the trade mark contains any immorality or scandalous figure.
- (4.) If the so-called trade mark does not contain the essentials necessary to constitute a trade mark properly speaking.

**27.** On compliance with the requirements of this chapter, and

of the rules hereinbefore provided for, the Colonial Secretary shall register the trade mark of the proprietor so applying, and shall return to the said proprietor one copy of the drawing and description with a certificate, signed by the Colonial Secretary, to the effect that the said trade mark has been duly registered in accordance with the provisions of this chapter; and the day, month and year of the entry of the trade mark in the register shall also be set forth in such certificate; and every such certificate purporting to be so signed shall be received in all courts in Newfoundland as *prima facie* evidence of the fact therein alleged without proof of the signature.

**28.** A trade mark once registered and destined to be the sign in trade of the proprietor thereof, shall endure without limitation.

**29.** Every trade mark duly registered shall be assignable in law, and on the assignment being produced, and the fee hereinbefore prescribed being paid, the Colonial Secretary shall cause the name of the assignee, with the date of the assignment and such other details as he shall see fit, to be entered on the margin of the register of trade marks, on the folio where such trade mark is registered.

**30.** Every person, other than the person who has registered the trade mark, who marks any goods, or any article of any description whatsoever, with any trade mark registered under the provisions of this chapter, or with any part of such trade mark, whether by applying such trade mark, or any part thereof, to the article itself or to any package or thing containing such article, or by using any package or thing so marked which has been used by the proprietor of such trade mark, or who knowingly sells or offers for sale any article marked with such trade mark, or with any part thereof, with the intent to deceive and to induce any person to believe that such article was manufactured, produced, compounded, packed or sold by the proprietor of such trade mark, is guilty of a misdemeanor and liable for each offence to a fine not exceeding one hundred dollars and not less than twenty dollars, which fine shall be paid to the proprietor of such trade mark, together with the costs incurred in enforcing and recovering the same.

(1.) Every complaint under this section shall be made by the proprietor of such trade mark, or by some one acting on his behalf and thereunto duly authorized.

**31.** An action or suit may be maintained by any proprietor of a trade mark, which has been registered in pursuance of this chapter, against any person who uses his registered trade mark, or any fraudulent imitation thereof, or who sells any article bearing such trade mark or any such imitation thereof, or contained in any package, being or purporting to be his, contrary to the provisions of this chapter.

## CONSOLIDATED STATUTES.

(Second Series.)

### CHAPTER 110.

#### OF COPYRIGHT.

1. This chapter may be cited as the "Copyright Act, 1890."
2. The expression "legal representatives" shall include executors, administrators and assigns or other legal representatives.
3. The Colonial Secretary shall cause to be kept in his office books, to be called the "Registers of Copyrights," in which proprietors of literary, scientific and artistic works or compositions may have the same registered in accordance with the provisions of this chapter.
4. Any person domiciled in Newfoundland, who is the author of any book, map, chart, or musical composition, or of any original painting, drawing, statute, sculpture or photograph, or invents, designs, etches or engraves, or causes to be engraved, etched or made from his own design any print or engraving, and the legal representatives of such person, shall have the sole and exclusive right and liberty of printing, re-printing, publishing, reproducing and vending such literary, scientific or artistic work or composition, in whole or in part, and of allowing translations to be printed or re-printed and sold of such literary work, from one language into other languages for the term of twenty-eight years from the time of recording the copyright thereof, in the manner herein-before directed.
5. (1.) The condition for obtaining such copyright shall be that the said literary, scientific or artistic works shall be printed and published or, in the case of works of art, that they shall be produced in this colony.

(2) No immoral, licentious, irreligious, treasonable or seditious literary, scientific or artistic work, shall be the legitimate subject of such registration or copyright.

6. Any literary work intended to be published in pamphlet or book form, but which is first published in separate articles in a newspaper or periodical, may be registered under this chapter while it is so preliminarily published, if the title of the manuscript and a short analysis of the work are deposited at the Colonial Secretary's office, and if every separate article so published is preceded by the words "Registered in accordance with the Copyright Act"; but the work when published in book or pamphlet form shall be subject also to the other requirements of this chapter.

7. If a book is published anonymously, it shall be sufficient to enter it in the name of the first publisher thereof, either on behalf of the unnamed author or on behalf of such first publisher, as the case may be.

8. No person shall be entitled to the benefit of this chapter, unless he has deposited at the Colonial Secretary's office two copies of such book, map, chart, musical composition, photograph, print, cut or engraving; and in case of paintings, drawings, statuary and sculpture, unless he has furnished a written description of such work of art, and the Colonial Secretary shall cause the copyright of the same to be recorded forthwith in a book to be kept for that purpose in the manner adopted by him, or prescribed by the rules and forms made from time to time, as herein provided.

9. The Colonial Secretary shall cause one of such two copies of such book, map, chart, musical composition, photograph, print, cut or engraving, to be deposited in the Legislative Library of this colony.

10. It shall not be requisite to deliver any printed copy of the second or any subsequent edition of any book, unless the same contains very important alterations or additions.

11. No person shall be entitled to the benefit of this chapter unless he gives information of the copyright being secured, by causing to be inserted in the several copies of every edition published during the term secured, on the title page or on the page immediately following if it is a book, or if it is a map, chart, musical composition, print, cut, engraving, or photograph, by causing to be impressed on the face thereof, or if it is a volume of maps, charts, music, engravings or photographs, upon the title

page or frontispiece thereof the following words, that is to say: "Entered according to the Act of the Legislature of Newfoundland, in the year , by , at the Colonial Secretary's office"; but as regards paintings, drawings, statuary and sculptures, the signature of the artist shall be deemed a sufficient notice of such proprietorship.

**12.** The author of any literary, scientific or artistic work, or his legal representatives, may pending the publication obtain an interim copyright therefor by depositing in the Colonial Secretary's office a copy of the title or designation of such work intended for publication, which title or designation shall be registered in an interim copyright register at the said department to secure to such author aforesaid, or his legal representative, the exclusive rights recognized by this chapter previous to publication.

**13.** The application for the registration of an interim copyright, a temporary copyright and of a copyright, may be made in the name of the author, or of his legal representatives, by any person purporting to be the agent of such author or legal representatives; and any damage caused by a fraudulent or an erroneous assumption of such authority shall be recoverable in any Court of competent jurisdiction.

**14.** (1.) The right of an author of a literary, scientific or artistic work to obtain a copyright, and the copyright when obtained shall be assignable in law, either as to the whole interest or any part thereof by any instrument in writing made in duplicate, which shall be registered at the Colonial Secretary's office on production of both duplicates and the payment of the fee hereinafter mentioned.

(2.) One of the duplicates shall be retained at the Colonial Secretary's office, and the other shall be returned with a certificate of registration to the party depositing it.

**15.** Whenever the author of a literary, scientific or artistic work or composition which may be the subject of a copyright has executed the same for another person, or has sold the same to another person for due consideration, such author shall not be entitled to obtain or retain the proprietorship of such copyright which is by the said transaction virtually transferred to the purchaser, and such purchaser may avail himself of such privilege unless a reserve of the privileges is specially made by the author or artist in a deed duly executed.

16. If at the expiration of the said term of twenty-eight years the author or any of the authors (when the work has been originally composed or made by more than one person) is still living, or if such author is dead and has left a widow or a child or children living, the same sole and exclusive right and liberty shall be continued to such author or to such authors still living, or if dead then to such widow and child or children as the case may be, for a further term of fourteen years; but in such case within one year after the expiration of such term of twenty-eight years the title of the work secured shall be a second time registered, and all other regulations herein required to be observed in regard to original copyrights shall be complied with in respect to such renewed copyright.

17. In all cases of renewal of copyright under this chapter, the author or proprietor shall within two months from the date of renewal, cause notice of such registration thereof to be published once in the *Royal Gazette*.

18. (1.) In case of any person making an application to register as his own the copyright of a literary, scientific or artistic work already registered in the name of another person, or in case of simultaneous conflicting applications, or of an application made by any person other than the person entered as proprietor of a registered copyright to cancel the said copyright, the person so applying shall be notified by the Colonial Secretary that the question is one for the decision of a Court of competent jurisdiction, and no further proceedings shall be had or taken by the Colonial Secretary concerning the application until a judgment is produced maintaining, cancelling or otherwise deciding the matter.

(2.) Such registration, cancellation or adjustment of the said rights shall then be made by the Colonial Secretary in accordance with such decision.

19. Every person who without the consent of the author or lawful proprietor thereof first obtained prints or publishes, or causes to be printed or published, any manuscript not previously printed in Newfoundland or elsewhere, shall be liable to the author or proprietor for all damages occasioned by such publication, and the same shall be recoverable in any Court of competent jurisdiction.

20. If a work copyrighted in Newfoundland becomes out of

print, a complaint may be lodged by any person with the Colonial Secretary, who on the fact being ascertained to his satisfaction shall notify the owner of the copyright of the complaint and of the fact; and if within a reasonable time no remedy is applied by such owner, the Colonial Secretary may grant a license to any person to publish a new edition, specifying the number of copies and the royalty to be paid on each to the owner of the copyright.

**21.** The following fees shall be paid to the Colonial Secretary before an application for any of the purposes herein mentioned is received, that is to say:—

|   |        |
|---|--------|
| On registering a copyright.....   | \$1.00 |
| On registering an interim copyright.....                                    | .50    |
| On registering a temporary copyright.....                                   | .50    |
| On registering an assignment.....   | 1.00   |
| For certified copy of registration.....                                     | .50    |
| On registering any decision of a Court of Justice, for every<br>folio ..... | .50    |

For office copies of documents, not above mentioned, the following charges shall be made:—

|   |        |
|---|--------|
| For every single or first folio, certified copy.....  | \$ .50 |
| For every subsequent hundred words (fractions under and not<br>exceeding fifty not being counted, and over fifty being<br>counted for one hundred)..... | \$ .25 |

(2.) The said fees shall be in full for all services performed under this chapter by the Colonial Secretary, or by any person employed by him under this chapter.

(3.) No person shall be exempt from the payment of any fee or charge payable in respect of any services performed under this chapter for such person, and no fee paid shall be returned to the person who paid it.

**22.** Nothing herein contained shall prejudice the right of any person to represent any scene or object, notwithstanding there may be copyright in some other representations of such scene or object.

**23.** Clerical errors which occur in the framing or copying of any instrument drawn by any officer or employee in or of the department, shall not be construed as invalidating such instru-

ment; but when discovered they may be corrected under the authority of the Colonial Secretary.

**24.** All copies or extracts, certified from the Colonial Secretary's office, shall be received in evidence without further proof and without production of the originals.

**25.** The Colonial Secretary may, from time to time, subject to the approval of the Governor in Council, make such rules and regulations, and prescribe such forms as appear to him necessary and expedient for the purposes of this chapter; and such regulations and forms circulated in print for the use of the public shall be deemed to be correct for the purposes of this chapter; and all documents executed and accepted by the Colonial Secretary shall be held valid, so far as relates to all official proceedings under this chapter.

**26.** Every person who wilfully makes, or causes to be made, any false entry in any of the registry books of the Colonial Secretary hereinbefore mentioned, or who wilfully produces or causes to be tendered in evidence, any paper which falsely purports to be a copy of an entry in any of the said books, shall be guilty of a misdemeanor, and shall be punished accordingly.

**27.** Every person who fraudulently assumes authority to act as agent of the author, or of his legal representative, for the registration of an interim copyright, a temporary copyright, or a copyright, shall be guilty of a misdemeanor, and shall be punished accordingly.

**28.** Every person who, after the copyright of any book is secured according to this chapter, and during the term or terms of its duration, prints, publishes, or reprints or republishes, or causes to be so printed or published, any copy or any translation of such book, without the consent of the person lawfully entitled to the copyright thereof, first had and obtained by assignment, or who knowing the same to be so printed, publishes, sells, or exposes for sale, or causes to be published, sold, or exposed for sale, any copy of such book without such consent, shall forfeit every copy of such book to the person then lawfully entitled to the copyright

thereof; and shall forfeit and pay for every such copy which is found in his possession, either being printed or reprinted, published or exposed for sale contrary to the provisions of this chapter, such sum not exceeding one dollar and not less than ten cents as the Court may determine, which forfeiture shall be recoverable in any Court of competent jurisdiction, and a moiety of such sum shall go to the Receiver General for the use of the Colony, and the other moiety shall belong to the lawful owner of such copyright.

29. Every person who after the registering of any painting, drawing, statue, or other work of art, and within the term or terms limited by this chapter, reproduces in any manner, or causes to be reproduced, made or sold in whole or in part any copy of any such work of art without the consent of the proprietor shall forfeit the plate or plates on which reproduction has been made, and every sheet thereof so reproduced, to the proprietor of the copyright thereof; and shall also forfeit for every sheet of such reproduction published or exposed for sale contrary to this chapter such sum not exceeding one dollar nor less than ten cents as the Court determines, which forfeiture shall be recoverable in any Court of competent jurisdiction, and a moiety of such sum shall go to the Receiver General for the use of the Colony, and the other moiety shall belong to the lawful owner of such copyright.

30. Every person who after the registering of any print, cut or engraving, map, chart, musical composition or photograph according to the provisions of this chapter, and within the term or terms limited by this chapter, engraves, etches or works, sells or copies, or causes to be engraved, etched or copied, made or sold, either as a whole or by varying, adding to or diminishing the main design with intent to evade the law, or who prints or reprints, or causes to be so printed or reprinted any such map, chart, musical composition, print, cut, engraving, or any part thereof without the consent of the proprietor of the copyright thereof first obtained as aforesaid, or who, knowing the same to be so re-printed or printed without such consent, publishes, sells, or exposes for sale, or in any manner disposes of any such map, chart, musical composition, engraving, cut, photograph, or print, without such consent as aforesaid, shall forfeit the plate or plates on which such

map, chart, musical composition, engraving, cut, photograph or print has been copied, and also every sheet thereof so copied or printed as aforesaid, to the proprietor of the copyright thereof; and shall also forfeit for every sheet of such map, chart, musical composition, print, cut or engraving found in his possession, printed or published, or exposed for sale contrary to this chapter, such sum, not exceeding one dollar nor less than ten cents, as the Court determines, which forfeiture shall be recoverable in any Court of competent jurisdiction, and a moiety of such sum shall go to the Receiver General for the use of the colony, and the other moiety shall belong to the lawful owner of such copyright.

**31.** (1.) Every person who has not lawfully acquired the copyright of a literary, scientific or artistic work, and who inserts in any copy thereof, printed, produced, reproduced or imported, or who impresses on any such copy that the same has been entered according to this chapter, or words purporting to assert the existence of a Newfoundland copyright in relation thereto, shall incur a penalty not exceeding one hundred dollars.

(2.) Every penalty incurred under this section shall be recoverable in any Court of competent jurisdiction, and a moiety thereof shall go to the Receiver General for the use of the colony, and the other moiety shall belong to the person who sues for the same.

**32.** No action or prosecution for the recovery of any penalty under this chapter, shall be commenced more than two years after the cause of action arises.

*An Act to amend Chapter 110 of the Consolidated Statutes,  
entitled "Of Copyright."*

[PASSED 19TH JULY, 1899.]

Section 1.—Copyright photographs.

Be it enacted by the Governor, the Legislative Council and the House of Assembly, in Legislative Session convened, as follows:—

1. Section 21, of Chapter 110, of the Consolidated Statutes, entitled "Of Copyright," is hereby amended by striking out the words following:

"On registering a copyright, \$1.00," and substituting therefor the words "On registering a copyright (except photographs), \$1.00." "On registering the copyright of a photograph, \$0.25."

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## NICARAGUA.

## PATENT LAW (OCTOBER 11, 1899).

ARTICLE 1. Every discovery or invention related to any industry or art gives to its author a right of ownership to be enjoyed by him exclusively during the time and under the conditions determined in this decree.

ART. 2. Any one who invents a machine, instrument, apparatus, manufacture, or method or process of application useful in the sciences or arts may request, and the Government grant him, a patent of invention that will assure his right of ownership during a term of from five to ten years.

ART. 3. Any one who improves a patented discovery or invention, has the right to obtain from the Government additional patent, but this shall not be granted for a longer term than that which remains before the expiration of the original patent.

ART. 4. By discoveries or new inventions, for the purpose of granting patents, shall be understood the new means and the new applications of known means for obtaining a given result or an industrial product, whether it be by a completely original process or by the improvement of those already known.

ART. 5. Patents shall not be granted for discoveries or inventions constituting products or processes used in the country.

ART. 6. Inventions made in foreign countries may be patented in Nicaragua only when by this means a new industry may be established and when the process employed in the same is secret, and also when expressly provided for by international treaties.

ART. 7. For the grant of a patent shall be paid from \$20 to \$100 yearly to the public Treasury during the time for which the same is granted, according to the importance of the business.

ART. 8. The payment of the annuities to which the preceding article refers shall be made to the General Treasury of the Republic the first year upon the granting of the patent and in succeeding years on the 1st day of January.

ART. 9. Patents shall not be granted when the invention or discovery may be contrary to the rights acquired by a third

person nor when prejudicial to hygiene or morals and when it may injure the security of persons or the State.

ART. 10. Every patent shall expire:

1. If it has been granted to the prejudice of the rights of other persons according to the judgment of a court of justice.
2. If one year shall have passed without putting into operation the industry or undertaking for which it was granted.
3. If the undertaking or industry is abandoned for a period of one year after having been established.
4. For not paying the annuities of the concession according to the terms of article 8.
5. When the products that are sold are inferior to the samples presented by reason of the same having been adulterated.

The expiration of a patent shall be declared by the courts of justice upon the application of private parties or of the Public Ministry or its representative.

ART. 11. Improvers of a patented invention shall not use the original invention to the prejudice of the inventor, neither can the latter make use of the improvement without the authority of the inventor.

ART. 12. Patents are granted only for the process and not upon the products that may be obtained by a distinct method of elaboration.

ART. 13. When the term of the patent has expired, the description, that which constitutes the secret of the patented process, made by the inventor or discoverer shall be published in the Diario Oficial and from that time shall be public property.

ART. 14. The Government in granting a patent shall reserve to itself the right to determine before the courts of justice the better right that other persons may have.

ART. 15. The application to obtain a patent shall be presented to the Ministry of Fomento, accompanied by the samples, drawings, or models which constitute the subject-matter of the petition, together with a statement sworn to and legalized before a notary, which must contain the description of the invention or discovery made by its author and a declaration by him that the public has no knowledge of the same. The application having been presented, the Ministry will note at the foot the day and the hour at which it was presented, giving a receipt that it has been presented to the interested party if he

should demand it. The application shall then be published in the *Diario Oficial* for a period of one month, and shall then be forwarded to the Director of Public Works, in order that he may inform himself, personally or by means of experts, at the expense of the person interested, as to the truth of the statements contained in the declaration of the applicant upon the utility of the process for which the patent has been demanded, and also to determine whether the latter is comprised among the cases excluded by any of the preceding articles.

ART. 16. The Public Ministry shall be heard before acting upon the petition.

ART. 17. Should there be no opposition and if the reports to which the preceding article alludes are not adverse, the Executive Power, through the Ministry of Fomento, shall issue a decree granting the patent.

ART. 18. The patent consists in a certificate containing the ordinal number which corresponds to that of the sworn petition of the applicant; the publication in the *Diario Oficial*; the expert report and that of the Public Ministry; the receipt showing the payment of the fiscal fees; a drawing of the object patented, and, finally, the decree in which the exclusive right of ownership is guaranteed.

ART. 19. Legal questions between private parties concerning the right to obtain a patent, the proof of falsity of a declaration made, and damage to the rights of others, are to be determined by the courts of justice.

ART. 20. The Office of Public Works shall keep a book in which the patents granted shall be registered, with all the data concerning the same, and a summary of the documents.

ART. 21. The decree in which the patent is granted shall be published in the *Diario Oficial*, and the Office of Public Works shall also publish annually a list of the patents granted and a description of them unless they are secret.

ART. 22. Patentees of inventions or improvements may transfer their rights under such conditions as they may deem advisable, provided that the transfer sets forth the name of the person who is bound to pay the fiscal fees and is witnessed by a public instrument, registered in the book of patents and announced in the official paper.

ART. 23. The transfer must indicate the rights that are trans-

ferred and whether it is limited to a certain specified town or Department or extends to the whole Republic.

ART. 24. There will be punished with six months to one year of imprisonment—

First. Those who counterfeit patented objects.

Second. Those who knowing that the same is patented, deal in them.

Third. Those who have made a false declaration in applying for a patent; and

Fourth. Those who make it appear that an object is patented without being so legally.

ART. 25. Those who sell articles that are fraudulent imitations of patented objects, are obliged to give to the patentee notice of the name of the author or vendor of the same and of the time when they were delivered, being considered accomplices in case they do not give satisfactory explanation of their origin.

ART. 26. In addition to the penalty that is fixed in article 24, the guilty parties shall incur the loss of the counterfeited objects and shall pay the proper indemnification for damages.

ART. 27. No civil or criminal action can be commenced if the objects of legitimate origin do not bear an indication of having been patented and the number of the patent whenever it is possible to indicate it. Nor can such actions be commenced after the lapse of three years from the date of the infringement or after one year from the day on which the patentee had knowledge of the fact for the first time.

#### TRADE MARKS.

In a report of the British Foreign Office for the year 1900 the following paragraph appears:

*“Nicaragua.—There are no laws in Nicaragua on the subject of trade marks, but in the Penal Code appear the two following articles:*

*“Article 314, paragraph 2: ‘He who forges the seal, stamp, or mark of any authority whatsoever, private establishment, industrial or commercial bank, or of an individual, or makes use of forged seals, stamps, or marks, will be liable to imprisonment for one year and a fine of from \$50 to \$500.’*

*“Article 319: ‘He who causes to be placed on articles of man-*

ufacture the name of a manufacturer who is not the maker thereof, or the commercial sign of a factory which is not the real factory, is liable to imprisonment for six months and to a fine of from \$50 to \$500.' ''

**PANAMA.****PATENT AND TRADE MARK LEGISLATION.**

It is to be supposed that as long as no new law is enacted in Panama on the subject of patents or trade marks, the laws of Colombia, which were in force in that territory at the time of the secession, shall continue to be observed.

## PARAGUAY.

### PATENT LAW.

Article 19 of the Constitution of Paraguay guarantees to all authors, inventors, or discoverers the exclusive ownership for a certain number of years of their works, inventions, or discoveries. But up to this date no law relating especially to this matter has been enacted.

The modus operandi in these cases is as follows:

The interested parties apply to Congress, asking for the privilege which they desire, and Congress by special act grants or refuses the patent as it may deem proper. Patents are generally granted for ten years.

### TRADE MARK LAW (JULY 6, 1889).

ARTICLE 1. Trade marks are names, stated in a special form, of objects or of persons, emblems, monograms, engravings or prints, seals, vignettes, reliefs, letters and numbers of a particular design, receptacles or wrappers, and any other signs intended to distinguish manufactured products or articles of commerce.

ART. 2. Trade marks can be affixed either upon the receptacles, wrappers, or the articles themselves.

ART. 3. The following shall not be considered as trade marks:

1. Letters, words, names, or titles used or to be used by the Government.

2. The form or shape given to the product by the manufacturer thereof.

3. The color of the product.

4. Words and expressions which have become of general use.

5. The designations usually employed to indicate the nature of the product or the class to which it belongs.

6. Drawings or expressions contrary to good morals.

ART. 4. The absolute ownership of the trade mark and the right to oppose the use of any other which may directly or indirectly produce confusion between the products, belong to the manufacturer or merchant who has complied with the provisions of the present law.

ART. 5. The absolute ownership of a trade mark applies only to the kind of article specifically protected by the latter.

ART. 6. The use of the trade mark is optional, but it may be made compulsory when required for the public benefit.

ART. 7. The ownership of a trade mark is hereditary and can be transferred by contract or by last will and testament.

ART. 8. The sale or transfer of the establishment where the article is produced carries with it the trade mark, if not provided otherwise. The assignee shall have the right to use the trade mark, even if consisting of the name of the assignor, or of some one else, as freely as the assignor himself might personally have done, with no other restrictions than those expressly set forth in the deed of sale or assignment.

ART. 9. The transfer of a trade mark shall be recorded at the office where it is registered; otherwise the right to use it shall not be conveyed to the purchaser or assignee.

ART. 10. No trade mark shall be considered to be in actual use, for the purpose of ownership under the present law, except those for which the office has given a proper certificate.

ART. 11. The protection of the rights of the manufacturer or merchant respecting the exclusive use of the trade-mark shall last only ten years, but may be extended indefinitely for equal periods, provided that all the formalities required are complied with, and the tax, to be established elsewhere in this law, is duly paid.

ART. 12. All those wishing to secure the ownership of a trade-mark shall apply to the Board of Public Credit, in which a Bureau of patents and trade-marks shall be established.

ART. 13. Applications for trade-marks shall be accompanied by the following papers:

1. Two copies of the trade-mark to which the application refers.

2. Description, in duplicate, of the trade-mark, if it consists of figures or emblems indicating the class of objects for which the trade-mark is intended and whether it applies to manufactured products or articles of commerce.

3. A receipt showing that the amount of the tax established by article 19 of the present law has been paid in the office of the Treasurer of the Board of Public Credit, with the approval of the Comptroller of the Treasury.

4. A power of attorney executed in due form of law in case the application is not made personally by the interested party.

ART. 14. A record of all the applications filed shall be kept in a book, the pages of which shall be numbered and signed by the Secretary of the Treasury, briefly stating the contents of the application and the date and hour of filing.

This record shall be signed by the President of the Board of Public Credit (or in his absence by another official of the Board), the Secretary, and the applicant, and the latter shall be given, if he so desires, a certified copy thereof, written on a sheet of 50-cent stamped paper.

ART. 15. Preference for the ownership of a trade-mark shall be governed by the day and hour on which the application was filed.

ART. 16. A certificate of trade-mark to be issued by the Bureau of Patents shall consist of a certified copy of the decree by which it was granted, accompanied by a duplicate of the description and the drawings. The certificate shall be issued in the name of the nation, and shall be authorized by the signatures of the President and Secretary of the Board of Public Credit and with the seal of the Board.

ART. 17. An appeal may be taken to the Secretary of the Treasury within the period of ten days, against the decision of the Board of Public Credit denying the ownership of a trade-mark, and the Secretary of the Treasury shall affirm or repeal the decision after hearing the Solicitor-General.

ART. 18. The Board of Public Credit shall keep a book in which all the concessions of trade-marks shall be inscribed in their regular order; and the President of the Board shall send every three months to the Secretary of the Treasury a statement of the certificates granted and denied, giving in each case the respective dates.

These statements shall be published in the newspapers.

ART. 19. A tax or fee of fifty dollars shall be paid for the registration of all trade-marks and the certificates thereof.

For any certified copy of the said certificates which may be desired thereafter an additional fee of five dollars shall be paid, this fee not including the value of the stamped paper, which shall be in this case one dollar for the first folio and twenty-five cents for each additional one.

ART. 20. The trade-marks for which certificates have been is-

sued shall be kept in the archives of the Board of Public Credit.

In case of litigation, a drawing of the trade-mark or of any section thereof shall be produced before the court, together with a certified copy of the description and of every other paper concerning or relating to the subject.

ART. 21. Trade-marks and the descriptions thereof shall be kept in the Bureau at the disposal of anyone wishing to examine them.

ART. 22. The name of the merchant, firm or business house dealing in a certain kind of article shall constitute industrial property for the purposes of the present law.

ART. 23. If a merchant desires to engage in an industry in which another person is already engaged, with the same name, or with the same conventional designation, he shall adopt such a modification of the said name or designation as to render it visibly distinct therefrom.

ART. 24. If a person who has been injured by the use of a trade-mark does not claim within one year, to be counted from the date on which the said use began, his action shall be barred by limitation.

ART. 25. Joint stock corporations shall have a right to the name used by them and shall be subject to the same limitations as private individuals.

ART. 26. The right to the exclusive use of a name as industrial property shall terminate with the existence of the business house or the branch of industry bearing the same.

ART. 27. It shall not be necessary, for the exercise of the rights granted by this law, to register a name unless it forms part of the trade-mark.

ART. 28. Fines ranging from \$20 to \$500, and imprisonment from fifteen days to one year, shall be imposed on the following:

1. Those who counterfeit or in any manner alter a trade-mark.
2. Those who affix upon their products or articles of commerce the trade-mark of some other person.
3. Those who knowingly sell, offer for sale, consent to sell, or circulate articles on which a counterfeited or fraudulent trade-mark has been affixed.
4. Those who knowingly sell, offer for sale, or consent to sell counterfeited trade-marks, and those who sell authentic marks without the knowledge of their owner.

5. All those who, with fraudulent intention, affix or cause others to affix upon merchandise a title or any other false designation relating either to its nature, quality, quantity, number, weight or measure, or the time or country in which it has been manufactured or shipped.

6. Those who knowingly sell, offer for sale, or consent to sell merchandise bearing the false titles and designations spoken of in the preceding paragraph.

In cases of second offense the penalty shall be doubled.

ART. 29. To constitute offense it shall not be necessary for the counterfeit to embrace all the objects which should have been marked, it being sufficient for the counterfeited mark to appear on only one object.

ART. 30. The simple attempt shall not be deemed punishable or to entail civil responsibility, but it shall be sufficient reason to cause the destruction of the instruments which would have served for committing the counterfeit.

ART. 31. Those who sell or offer for sale merchandise bearing a usurped or counterfeited trade-mark shall be bound to give to the merchant or manufacturer who is the owner thereof complete information in writing of the name and address of the person or persons from whom he purchased or obtained the merchandise, and also of the time which they began to sell it. In case of refusal, they can be judicially compelled to do so under penalty of being considered as accomplices.

ART. 32. All merchandise bearing counterfeited trade-marks found in the possession of the counterfeiter or of his agents shall be confiscated and sold, and the proceeds of the sale shall be applied, after deducting the costs and indemnities established by the law, to meet the expenses of the national schools.

ART. 33. Counterfeited trade-marks found in the possession of the counterfeiter or his agents shall be destroyed, together with the instruments used in making the counterfeit.

ART. 34. Criminal proceedings shall be instituted only at the request of interested parties, but after they are started they may be continued by the Government attorney.

The complainant may abandon his action at any time during the proceedings up to the moment of pronouncing the sentence.

ART. 35. Those who have been injured by violators of the

present law have the right to sue for damages the authors and abettors of the offense.

Sentences passed in these cases shall be published at the expense of the condemned parties.

ART. 36. No criminal or civil action can be instituted after a lapse of three years, to be counted from the date on which the offense was committed or repeated, or after one year, to be counted from the date on which the owner of the trade-mark became acquainted for the first time with the fact.

Interruptions of the time required to bar by limitation the action of a complainant shall be the same as are established by law for all cases.

ART. 37. The provisions contained in the foregoing articles of the present title shall be applicable to those who without any right to do so make use of the name of a merchant or of the title or designation of a commercial house or factory, as set forth in title 2 of the present law.

ART. 38. Manufacturers who at the time of the promulgation of the present law are in possession of a trade-mark within the territory of the Republic shall not be entitled, however, to the exclusive use of the same, unless they fulfill the conditions required by the present law; and for this purpose the period of one year, to be counted from the date of promulgation, is hereby granted to them.

ART. 39. If before the promulgation of the present law several manufacturers have made use of the same trade-mark, the right to the exclusive use thereof shall be given to the one proving to have made first use of it.

Should these parties be unable to prove priority in the use of the trade-mark, the ownership shall be given to the one doing the greatest amount of business.

ART. 40. Parties failing to register a trade-mark within the period fixed in article 38 of the present law shall not be entitled to take advantage of the use made thereof before the sanction of the present law to claim the right of priority.

ART. 41. Before issuing a certificate of trade mark within one year after the promulgation of the present law, the application of the interested party or parties shall be published for thirty days at the applicant's expense in a newspaper of the capital of the Republic, or of his residence, should any be published there.

ART. 42. In order that foreign trade-marks may be given the protection accorded by this law, they shall be registered in conformity with its provisions.

The owners of foreign trade marks or their duly accredited agents are the only ones authorized to apply for their registration.

ART. 43. The Executive Power shall make such rules as may be necessary for the execution of the present law.

## PERU.

### *General Remarks.*

In Peru, as in Paraguay and some other countries of America, the origin and foundation of the law on patents of invention is to be found in its political constitution. Article 27 of that instrument reads as follows:

“Useful discoveries are the exclusive property of their discoverers, except when they have willfully agreed to sell the secret thereof, or in case of condemnation of the patent for public use. Importers of discoveries made abroad shall enjoy the same advantages as the discoveries themselves, during the period of time allowed to the latter under the law.”

### PATENT LAW OF JANUARY 28, 1869.

ARTICLE 1. Discoveries or inventions in any branch of industry give their authors the exclusive right to work them to their profit under the conditions and for the time established in this law. This right shall be proven by means of a patent issued by the Government.

ART. 2. The following shall be considered inventions or discoveries:

1. All new industrial products.
2. All new methods or processes, or new applications of methods or processes already known, for obtaining an industrial product.

ART. 3. The following shall not be patentable:

1. Pharmaceutical compositions and medicines of all kinds.
2. Financial plans or business combinations to secure credit or revenue.

3. Methods or processes intended to improve some industry, if they are already known and freely used either at home or abroad.

ART. 4. The right to put into practical operation plans and combinations of the class referred to in paragraph 2 of the foregoing article shall be allowed when the contracts therein involved are permitted by law; but the granting thereof shall always be made at public auction.

ART. 5. The duration of the privilege shall not exceed ten years, and those who obtain it shall pay \$100 each year. This money shall be used in defraying the expenses of public works in the province where the patent is used.

ART. 6. Applicants for patents of invention or introduction shall file their petitions at the office of the Prefect of the department wherein the patent is to be used, or at the office of the Prefect of the department where they have their domicile, if the patent is to be used in two or more departments.

ART. 7. The applications shall contain—

1. The description of the invention.
2. The drawings or samples required for the proper understanding thereof.
3. A statement, list, or schedule of the models accompanying the application.
4. A clear and precise statement of the main purpose of the invention, the elements constituting it, and its uses.
5. The duration of the privilege.
6. The bond to be given as security for the carrying out of the idea represented by the invention.

ART. 8. The application shall be written in Spanish, and no numbers, weights, or measures shall be used which are not known in the Republic.

If among the signers of the application there is any who is a foreigner, he shall make express renunciation of any right he may have to ask for diplomatic intervention in his behalf, in case that any question relating to the privilege asked for should ever arise. The said foreigner shall submit absolutely and exclusively to the laws and tribunals of the Republic. Without these requisites the application for the patent shall not be acted upon.

ART. 9. The Prefects shall refer the application to the Municipal Council, to the Government attorney, and to all the other functionaries who, according to the nature of the subject, may have the right to express an opinion thereon. If necessary, they will hear also the opinions of experts. All this having been done, the Prefect shall forward the complete record, together with the drawings, models, etc., and their own report, all at the expense of the applicant, to the Secretary of the Government Department to which the matter belongs.

ART. 10. The Secretary of the said Government Department

shall refer the case to the Attorney-General and to all the Bureaus or offices which he may deem proper, and upon their opinions or reports he shall grant or refuse the privilege.

ART. 11. Extensions of the time of the privilege, and changes or modifications of the same, shall never be granted, except by an act of Congress, at the request of the patentees, and upon substantial reasons, well-established facts, or trustworthy documents.

ART. 12. The right to use the privilege shall belong exclusively to the patentee. All other persons must have either his permission or a formal conveyance or transfer of his rights in their favor, said conveyance or transfer to be made under the methods recognized by law.

ART. 13. Patents of privilege shall be null and void in the following cases:

1. If the discovery, invention, or application is not new.
2. If they are not included in the classes explained in article 2.
3. If they refer to principles, methods, systems, theoretical or scientific discoveries, the industrial application of which has not been indicated.
4. If they prove to be detrimental to public safety, public order, or the provisions of law. It is understood that the nullification of the patent in this case does not exempt from due punishment the manufacturers or sellers of forbidden articles.
5. If it is proven that they were applied for and obtained, with the fraudulent intention of securing results different from the true one of the invention.
6. If when put into practice it is found that they do not correspond with the description filed with the application.
7. If they were obtained in violation of any of the provisions of this law.
8. If in granting the privilege, some pecuniary subsidy not provided for in the general appropriation law, or some exemption contrary to law, was also granted.

All measures relating to amendments, improvements, or additions not embraced in the original patent shall also be void.

ART. 14. No discovery, invention, or application shall be deemed new, if sufficient publicity to make it known has been given to it, either at home or abroad, previously to the date of the application.

ART. 15. The patentee shall forfeit his privilege:

1. If he does not pay the annual quotas required by article 5.

2. If he does not put his invention or discovery into practice within two years after the date of the patent, or during the period which the patent itself may state, except in case that he furnishes sufficient reasons capable to exculpate his failure.

3. If he imports from abroad articles similar to those protected by the patent. Models of machinery shall be excepted from the operation of this rule when examined by the Government and imported with its authorization.

ART. 16. Whoever assumes unlawfully the title of owner or possessor of a privilege and calls himself such, in handbills, advertisements, marks, stamps, etc., without having any right to do so, or after the expiration of the patent, shall be punished with a fine not to exceed 50,000 sols, according to circumstances. In case of second offense the fine shall be doubled, but the penalties attached to the making of false statements shall be also imposed.

ART. 17. All persons interested in a privilege shall have the right to ask for the nullification or cessation thereof. No decision shall be given on this subject without first hearing the Attorney for the Government. If the privilege is, for any reason whatever, annulled or canceled, notice thereof shall be given to the proper Department.

ART. 18. Infringements of patents, whether by manufacturing the patented products or by using the methods and processes protected by the patent, shall constitute a criminal offense to be punished, according to the circumstances of the case, with a fine to the benefit of the patentee, and the confiscation of the machinery, products, and everything connected with the infringement.

ART. 19. Patents now in operation, issued in accordance with the provisions of the law in force at their respective dates, shall continue in existence for the balance of the period granted to them.

#### AMENDMENT OF THE FOREGOING LAW, ENACTED ON THE 3D OF JANUARY, 1896.

Whereas experience has shown the necessity of amending the patent law of January 28, 1869, the following is hereby enacted:

ARTICLE 1. Persons or corporations desirous of obtaining a patent, be they inventors or importers of inventions, must file their applications directly at the Government offices. The Secre-

tary of Commerce will take charge of the application and issue the letters patent.

ART. 2. The application shall be accompanied by the following: First, a description, in duplicate, of the invention or fact on which the invention is based; second, the plans, samples, or drawings, in duplicate, which may be necessary to illustrate the invention; third, a memorandum on the objects or papers submitted with the application; fourth, the clear and precise specification of the claim, stating its distinctive features and the uses of the invention; fifth, a statement of the time for which the patent is requested, provided that it does not exceed ten years, which is the maximum allowed by the law.

ART. 3. As the Government does not guarantee either the novelty or usefulness of the invention, the security required by article 7, section 6, of the patent law in force shall no longer be obligatory.

ART. 4. The application shall be referred to the Industrial Bureau, where the applicant shall be provided with a certificate showing the date of the application. If the applicant should so desire, an official notice stating the name of the inventor and the nature of the invention shall be published at his expense during thirty days. This having been done, the application shall be referred to two examiners duly appointed. Should their opinion be contrary to the claim, notice shall be given to the applicant, and when he may have submitted his reasons for upholding the claim a third examiner shall be associated to those already appointed and their final opinion referred to the Industrial Bureau and to the Attorney-General, after which the Secretary of the Treasury shall give his decision.

ART. 5. If the decision is favorable an order shall be made directing the patent to be issued, as soon as the applicant shall pay into the Treasury the sum of 50 sols, as Government fees, and unless this payment is made the patent shall not be issued.

ART. 6. The duration of the privilege shall be counted from the date of the patent; and the patent shall have effect in all parts of the Republic.

ART. 7. The law of January 28, 1869, is hereby amended, and the decree of February 26 of the same year is repealed. The models to which it refers shall be kept in the future in the Industrial Bureau.

ART. 8. Applications which may be pending, at the time of the publication of this law, at the Prefect's office or before the provincial corporation, shall be immediately referred, regardless of their condition, to the Minister of Finance, who shall attend to the further prosecution of the claims according to this law, omitting the publications of the official notice.

The Executive shall take all necessary measures for enforcing this law.

#### EXECUTIVE DECREE ON EXTENSIONS OF TIME FOR COMMENCING THE WORKING OF PATENTS.

LIMA, *May 10, 1903.*

Considering that in conformity with article 15 of the law of January 28, 1869, it is within the power of the Government to fix the term during which a patent must be put in operation, and that therefore it has also the power to extend the said term, when required by circumstances: It is

*Resolved*, That the Government shall grant an extension of the time granted for commencing the working of a patent of invention, when the application therefor be sufficiently justified, and accompanied by a certificate of the Solicitor of the Treasury showing that the petitioner has paid the sum of 25 sols; it being understood that this extension does not in any way modify the duration of the patents as prescribed by article 50 of said law.

#### TRADE MARK LAW (DECEMBER 19, 1892.)

ARTICLE 1. All persons or industrial corporations have the right to apply for and obtain the official registration of denominations of articles, or names of persons written in some particular form, emblems, monograms, engravings, drawings, seals, vignettes, stamps in relief, letters, and numerals made or written in some special form, casks and wrappings, and in general any kind of sign or mark by which products of a factory, or articles of one class of trade, may be distinguished from all others.

ART. 2. The use of a mark is optional, but if required by the good of the public it shall be compulsory.

ART. 3. The following can not be registered as trade marks:

1. Letters, words, names, or marks used, or to be used, by the Government only.

2. The form or shape given to the article by its manufacturer.
3. The color of the article.
4. Terms or expressions in general use.
5. Designations usually employed to indicate the nature of the articles or the class to which they belong.
6. Immoral drawings or expressions.

ART. 4. The right of ownership recognized by a registered trade mark shall last ten years, but this time may be extended for another ten years, provided that application to that effect is made at any time within six months before the expiration of the first period, and provided further that all the requisites provided for in the original registration shall be again complied with.

ART. 5. The registration of a trade mark entails the recognition of absolute ownership of the same in favor of the party obtaining it, and also of the right to oppose by legal means the use of any other mark liable to produce confusion, either directly or indirectly, between his own articles and others of similar kind. This right of ownership only extends to industries of the same kind.

ART. 6. The ownership of trade marks passes to the heirs, and is transferable by contract or testamentary disposition.

ART. 7. It is to be understood that the sale or transfer of the factory or establishment which owns and uses a trade mark carries with it, if nothing is provided to the contrary, the transfer of the ownership of the mark itself.

Transfers shall be recorded at the office where the marks are registered.

ART. 8. No trade mark shall be deemed valid, for the purposes of law, if it is not protected by a certificate of registration issued by the proper office.

ART. 9. The priority or preference of the right of ownership of a trade mark shall be governed by the date of the application for its registration.

ART. 10. To secure the ownership of a trade mark the following is required:

1. To file an application for that purpose in the Department of the Treasury and Commerce, said application to be accompanied by two copies of the mark the registration of which is desired.
2. To file, also in duplicate, a description of the mark when consisting of a figure or emblem.

3. To indicate the class of articles on which the mark is to be placed or affixed and explain whether the placing or affixing of the mark is to identify the products of some particular factory or to differentiate from all others a particular class of articles of commerce.

4. To prove by means of a receipt from the General Treasury that the registration fees have been paid.

5. To exhibit the power of attorney of the manufacturer or merchant who wishes to secure the ownership of the trade mark, if the applicant appears in his name.

ART. 11. The industrial division of the Department of the Treasury and Commerce shall keep a register of foreign trade marks, and another of domestic ones. The entries shall set forth succinctly the claims of the applicants, and the day and hour on which the applications are filed. Each entry shall be signed by the head of the office, the secretary or clerk in charge of the matter, and the applicant himself. The applicant shall be provided, at no other expense than the cost of the stamped paper, with a copy of the entry. The registration books shall be paginated, and the initials or signature of the Secretary of the Treasury shall be affixed to each one of their folios.

ART. 12. The registration office shall keep another book, wherein concessions of ownership of trade marks shall be entered in chronological order. The head of the office shall send semiannually to the Secretary of the Treasury and Commerce a list of the concessions made and refused during the period. This list shall be published.

ART. 13. The trade marks shall be properly classified and preserved in the archives of the registration office. The originals shall be produced in court in case of litigation. The public shall be permitted to examine them at the office.

ART. 14. The duplicates of descriptions and drawings filed with the applications shall be attached to the certificates of ownership of the trade mark issued by the registration office. Said certificates shall be signed and sealed by the head of the office, in the name of the nation, by authority of the Government.

ART. 15. Reconsideration of orders refusing the registration of a trade mark may be applied for within the period of thirty days subsequent to the date of the order. Applications to that effect shall be made to the Secretary of the Treasury and Commerce,

who, before rendering his decision, shall hear the opinion of the Government Attorney before the Supreme Court.

ART. 16. The fees to be paid by the interested parties or their representatives shall be as follows: For the registration of a foreign trade mark or name, 100 silver sols; for the registration of a transfer and the certificate thereof, 50 sols; for the first certificate of registration, 40 sols; for each extra copy of the same, 20 sols.

The value of the stamped paper on which these certificates should be written shall be also paid by the applicant.

If the applicant is a domestic factory or establishment, the fees above stated shall be reduced to one-fourth.

ART. 17. The name of a merchant, or of a commercial or industrial firm, or of a house or establishment trading in any article whatever, shall constitute, for the purposes of this law, industrial property.

ART. 18. Manufacturers or merchants when engaging in an industry already being carried on by some one else under a certain name, shall amend that name so as to make it different.

ART. 19. Protests by interested parties against injuries sustained by them in these matters shall be entered within the period of one year.

ART. 20. Corporations shall have, as far as the ownership of their names is concerned, the same rights as individual persons, and shall be subject to identical obligations.

ART. 21. The exclusive right to use a name considered as industrial property shall terminate with the closing of the house or factory, or with the cessation of the industry to which the right refers.

ART. 22. In order to enjoy the benefits of the law as far as the ownership of a name is concerned, it is not necessary for the name to have been registered. But the registration of the name is indispensable when it forms part of a trade mark.

ART. 23. Infringements of trade marks shall be punished with fines ranging from 25 to 500 sols, or with imprisonment from forty days to six months. The following shall be guilty of infringement:

First. Those who counterfeit or in any way adulterate trade marks.

Second. Those who affix, upon articles of their own fabrication, trade marks belonging to others.

Third. Those who knowingly sell, offer for sale, accept the sale, or consent to the sale or circulation of articles stamped with counterfeited marks, or with marks fraudulently used.

Fourth. Those who knowingly sell, offer for sale, or accept the sale of counterfeited trade marks, and even authentic ones, when done without the consent of their lawful owners.

Fifth. Those who, with fraudulent intention, mark or cause others to mark their own articles with false titles, or designations, respecting their nature, quality, quantity, number, weight, measure, or the name of the country of origin.

Sixth. Those who knowingly sell, offer for sale, or accept the sale of articles bearing the false statements to which reference is made in the foregoing paragraph.

ART. 24. In cases of second offense the penalty shall be doubled.

ART. 25. The infringement or usurpation shall be deemed consummated, even if the counterfeited mark is affixed only to one article.

ART. 26. Those who have sold, or keep for sale, articles bearing counterfeited marks, thereby infringing or usurping legitimate rights shall be bound to inform the lawful owner of the mark of the name and address of the person or persons from whom they bought the articles, or who offered to them the sale of the same, and the dates on which the negotiations for this purpose began. Those refusing to furnish this information may be judicially compelled to give it, under penalty of being taken and dealt with as accomplices.

ART. 27. All articles bearing counterfeited or fraudulent marks found in the possession of the infringer or his agents shall be confiscated and sold. The proceeds of the sale shall be applied to the payment of the costs and of the indemnity established by law. The balance, if any, shall go to the schools of the province where the confiscation was made.

ART. 28. All counterfeited marks found in the possession of the infringer and all instruments and tools used for the counterfeiting shall be destroyed.

ART. 29. The right to criminally prosecute the infringers belongs exclusively to the injured party, but after the proceedings

have been started the Attorney for the Government shall join in them. The complainant shall have the right, however, at any time before the rendering of the decision, of withdrawing his complaint and thus ending the case.

ART. 30. Persons injured by the infringement shall have the right to sue the infringers and their accomplices for damages. The decisions shall be published at the expense of the party against which they were rendered. The action expires by limitation three years after the infringement, and one year after the owner of the trade mark became aware of it.

ART. 31. Cases of usurpation of name shall be governed by the same rules as the cases of infringements of trade marks.

ART. 32. The registration of trade marks made by Municipal Councils shall be revalidated upon request by the owners of the marks, the protection of which shall then be extended to the whole territory of the Republic. The fees to be paid in this case shall be one-half of the regular registration fees.

ART. 33. The Provincial Council shall forward to the Department of the Treasury and Commerce all the trade mark registration books which may be in their possession. The said Councils are henceforth forbidden to take action in the matter of trade marks.

#### TRANSIENT PROVISIONS.

ART. 34. Business people, who at the time of the promulgation of this law find themselves in possession of trade marks to be used within the limits of the Republic, shall not secure the exclusive right of ownership of the same unless they comply with the provisions of the present law. One year's time, to be counted from the date of the promulgation of this law, is hereby granted them for this purpose.

ART. 35. In case that various persons engaged in industrial business have made use before the promulgation of this law of one and the same trade mark, the ownership of the same shall belong to that one who proves to have used it prior to all others. If such priority of use can not be proven, the ownership shall belong to the one who should pay a larger patent fee. If the patent fees are equal, preference shall be given to the one who has in his employment in the business to which the mark refers a greater number of employees, citizens of the Republic.

ART. 36. If the registration of a trade mark is not made within the time fixed by article 34, the use thereof before the approval of the present law shall not be sufficient ground for claiming exclusive ownership.

ART. 37. During the first year of the operation of this law no certificate of registration shall be issued without first publishing for thirty days in a newspaper of the capital of the Republic and in another of the place of residence of the applicant, and at his expense, the petition filed by the latter.

**SALVADOR.****PATENT LAW.**

*[Promulgated May 13, 1901.]*

The National Legislative Assembly of the Republic of Salvador, considering that the promulgation of a law on the subject of patents of invention or improvement, by which the rights of the inventors should be properly protected, is conducive to promote the general interests of the country, in use of the constitutional powers vested in it, does hereby decree:

**ARTICLE 1.** Every Salvadorian or foreigner who is the inventor or improver of any industry or art, or of objects destined therefor, has the right, by virtue of article 34 of the Constitution, to the exclusive use thereof, during a certain number of years, under the rules and regulations prescribed in this law.

In order to acquire this right a patent of invention or improvement should be obtained.

**ART. 2.** All discoveries, inventions, or improvements having for their object a new industrial product, a new manner of production, or the new application of means already known for obtaining an industrial result or product, shall be patentable. Chemical or pharmaceutical products shall also be patentable.

**ART. 3.** No invention or improvement shall be considered new when it has received in Central America or abroad, and prior to the application for the patent, sufficient publicity to be put into practice. An exception from this rule is admitted, when the publication has been made by a foreign authority empowered to issue patents, and when the invention or improvement has been exhibited in expositions held in the Republic or abroad.

**ART. 4.** The following shall not be patentable:

I. Inventions or improvements the use of which is contrary to law or public safety.

II. Scientific principles or discoveries as long as they are merely speculative and not in the form of a machine, appa-

ratus, instrument, mechanical or chemical process, or preparation of a practical industrial character.

ART. 5. Before granting a patent the Department of "Fomento" shall investigate whether the invention or improvement to be covered by it is a real fact.

ART. 6. No patent shall cover more than one object or process. When two or more objects or processes may be combined to produce one industrial result, applications for as many patents as may be necessary to cover each one of them shall be required.

ART. 7. The rights vested by patents issued in the Republic, whether for objects or for processes, which are or may hereafter be protected by foreign patents, shall be independent of the rights vested by the latter, and of the effects or results thereof.

ART. 8. The effects of a patent shall be:

I. To deprive all persons of the right to produce, for industrial purposes, without permission from the owner of the patent, the object of the invention, or to place it in the market, or sell it.

II. To deprive all persons, without permission of the owner of the patent, if the latter covers a process, machine, or any other manner of working an instrument or other means of operation, an instrument or other implement of labor, of the right to apply the process or use the object patented.

ART. 9. The patent shall not protect the patentee against the claims of third parties which, previous to the filing of the application for the patent, had been using, or making preparations for using, within the Republic, the patented invention or process.

ART. 10. A patent shall not cover objects or products which are in the Republic or in its territorial waters merely in transit.

ART. 11. The right to apply for a patent for objects or processes, protected by foreign patents, shall be vested exclusively in the inventors or improvers themselves, or their legitimate representatives.

ART. 12. Inventors shall have, to the exclusion of all other parties, for the period of one year from the date of their patents, the right of applying for a patent of improvement of their original invention.

ART. 13. Patents shall be granted for twenty years, to be counted from the date on which they are issued; but when they

are intended to protect objects or processes already under the protection of foreign patents, they shall be granted only for a period of time equal to the unexpired term of the oldest patent.

ART. 14. A patent may be extended for five years in special cases, at the discretion of the Executive. The extension of a patent of invention implies the extension of any patent for improvements thereon, which may have been granted.

ART. 15. A patent may be condemned for public use upon proper indemnification, to be paid previously, whenever the Executive, after due examination of the patented articles or processes, finds them capable of creating an important branch of public wealth: *Provided, however,* That any of the following circumstances occur:

I. That the inventor or improver refuses to allow his patent to be used.

II. That the patented machine, apparatus, or instrument is capable of being made or used in the country.

The manner and form of procedure to secure the condemnation of a patent under the present article shall be determined by law.

ART. 16. In order to secure a patent and the rights and privileges attached thereto, application shall be made in due form to the Department of "Fomento," in which the power of granting patents is hereby vested.

ART. 17. First applicant for a patent shall have in their favor the presumption of being first inventors or improvers, and shall enjoy, moreover, the rights of possession.

ART. 18. Inventors or improvers, whether citizens or foreigners, who are unable to personally appear before the Department of Fomento, shall have the right to appoint attorneys to represent them in securing the patent and in any lawsuits or questions relating thereto. Salvadorian citizens may appoint their attorneys by a simple letter of authorization, but foreigners shall have to execute a regular power of attorney and have it duly recorded.

These powers of attorney shall cease to have effect, unless otherwise provided in them, as soon as the patent is issued.

ART. 19. The application for a patent shall be published in

the Diario Oficial, at intervals of ten days, during a period of two months.

ART. 20. During the period of time mentioned in the foregoing article every one shall have the right to come before the Secretary of Fomento and oppose the granting of the patent. After the expiration of this period no opposition of any kind shall be allowed.

ART. 21. Opposition shall be allowed only on the following grounds:

I. When the invention or improvement is not patentable under the provisions of this law.

II. When the subject-matter of the alleged invention or improvement has been taken from descriptions, specifications, drawings, models, instruments, apparatuses, or processes invented by another person, or from processes already put in practice by another, and, in general, when the applicant is not the original inventor or improver or their legitimate representative.

ART. 22. If two or more persons apply for the same patent, the latter shall be issued in favor of the first inventor or improver, and, if this priority can not be ascertained, in favor of the first applicant.

ART. 23. In all cases of opposition, under articles 20 and 21 of the present law, the Secretary of Fomento shall order the parties to appear before him, and an effort shall be made there to reconcile their differences; and if this can not be done, all proceedings shall be suspended at once, the whole matter being then referred to the decision of the courts. The opposing party shall have two months to take proper action before said courts; but if no action is taken within this time, the opposition shall be dismissed.

ART. 24. All final decisions passed by the courts in these matters shall be transmitted to the Department of Fomento for their proper enforcement.

ART. 25. No decision of the Department of Fomento granting a patent shall be invalidated except by judicial action, and only on the ground of nullity.

ART. 26. At the expiration of the two months referred to in article 19, if the Department of Fomento has not already issued any patent covering the same invention or improvement, the

patent shall be issued upon payment of the proper fees into the General Treasury of the Republic.

ART. 27. Patents shall be issued in the name of the nation, they shall be signed by the President of the Republic and countersigned by the Secretary of Fomento, and they shall contain in clear language a description of the discovery or improvement patented.

The patent, accompanied by an authentic copy of the drawings, samples, or models, and another copy, issued by the chief clerk, of the document filed with the application, shall constitute the title papers of the patentee.

ART. 28. Patents shall be recorded in a special register kept for the purpose.

ART. 29. All patents shall be published in the Diario Oficial, and a clear and precise description of the patented inventions or improvements, accompanied by copies of the drawings, shall also be published annually in book form.

ART. 30. All objects protected by a patent shall bear a mark stating the fact and the number and date of the patent.

ART. 31. The fee to be paid for a patent shall be from \$50 to \$150.

ART. 32. The extension of a patent under article 14 of the present law, shall necessitate the payment of the same fee.

ART. 33. Patentees of inventions or improvements shall prove, before the Department of Fomento, at the expiration of the first five years of the duration of their patents, that they have paid into the General Treasury an additional fee of \$50. Five years afterwards—or, in other words, at the expiration of ten years—the additional fee shall be \$75, and at the expiration of fifteen years it shall be \$100. All these payments shall be made in the currency of the country.

If these additional fees are not paid at the expiration of each period of five years, the patent shall not be allowed to run for the succeeding period.

Two months' time after the expiration of each five years shall be allowed in which to pay these fees, but this period shall not be extended.

ART. 34. The Department of Fomento shall enter on the Register of Patents a notice that the provisions of the foregoing article have been complied with.

ART. 35. Patents shall be void:

I. When issued in contravention of articles 2, 3, 4, and 5 of the present law. But if they have been issued upon applications, wherein more has been asked and granted than that to which the applicants are entitled as first discoverers or inventors, they shall be valid in so far as they relate to whatever the patentees may be really entitled to, provided that the provisions of the following paragraph are not violated and that in making the application no fraud was intended. In such case the patent shall be confined exclusively to what it should comprise, notice thereof being published and recorded as provided by article 39 of the present law.

II. When issued for an object different from the one stated in the application.

III. When it is proven that the main purpose of the application is liable to opposition under Section II of article 21.

The action to invalidate a patent in the present case shall be barred by limitation at the end of one year from the date in which the patent began to be used in the Republic.

ART. 36. Proceedings before the courts for the invalidation of a patent on the ground of nullity may be instituted by private parties or by the Solicitor of the Treasury. The nullity of a patent can also be pleaded as a defense by any one engaged in the same industry.

ART. 37. Patents shall become extinct:

I. Upon the lapse of the time for which they were granted, or of the extensions.

II. Upon the giving up, wholly or in part, of the patent.

III. Upon failure to comply with the provisions of article 33.

ART. 38. The declaration of extinction upon the grounds stated in Sections I and II of the foregoing article shall have to be made by the Department of Fomento. When asked upon the grounds of Section III, only the courts of justice shall be competent to make it, either at the request of private parties or of the Solicitor of the Treasury, whether through action or exception.

ART. 39. The declaration of the nullification or extinction of a patent shall be published in the "Diario Oficial" and recorded in the registration books of the Department of Fomento.

ART. 40. The effects of a declaration of nullity or forfeiture

of a patent shall be to cause the invention or improvement to become public property.

When the renunciation of a patent has been only in part, the patent shall remain in force as to the rest. As to the rest, the use of the invention or improvement shall be free to all.

The renunciation shall have to be made in writing, and shall be entered on the register of the Department of Fomento.

ART. 41. The ownership of a patent may be conveyed by any of the means established by law for the conveyance of private property; but no assignment or act whatever implying a modification of the right of ownership shall be prejudicial to the rights of the third party if not recorded in the Department of Fomento.

ART. 42. Everything relating to infringements of patents shall be regulated by the provisions of the penal code and the rules of procedure applied thereto.

ART. 43. The patent cases now pending shall be taken up in the condition in which they are, but everything to be henceforth done in the same shall be done in exact conformity with the provisions of this law.

ART. 44. All owners of valid patents heretofore issued may avail themselves of the benefits of the present law, at the time fixed by it, upon the previous payment of the fees which it establishes.

ART. 45. The Executive shall have the power to make such rules as may be necessary for carrying the present law into effect, and also to create a Patent Office, attached to the Department of Fomento, if deemed advisable.

#### TRADE MARK LAW OF APRIL 27, 1901.

The National Legislative Assembly of the Republic of Salvador, in use of the constitutional powers vested in it, does hereby decree:

ARTICLE 1. Any sign by which the products of a factory or articles of commerce are distinguished shall be considered a trade mark.

ART. 2. The protection which the present law concedes to industrial or mercantile trade marks does not cover any article not manufactured or sold in the country.

ART. 3. No form, color, motto, or title which does not in itself

constitute a specially distinguishing mark in trade of a product, shall be considered as a trade mark. In no case shall such mark be contrary to good morals.

ART. 4. Any proprietor of a trade mark, whether a citizen or a foreigner residing in the country, may acquire the exclusive right to use the same in the Republic, subject to the provisions of this law.

Citizens and foreigners residing abroad may register ownership of trade marks, provided they have in the country a branch house or industrial or mercantile agency for the sale of their products, subject, however, in the case of foreigners, to treaty provisions.

ART. 5. In order to acquire exclusive ownership of a trade mark the interested party shall make application in person, or by his representative, to the Mercantile Tribunal at his place of residence, declaring in writing that he reserves his rights upon same, and accompanied by the following documents:

I. A power of attorney granted to the representative, should the interested party not appear in person.

II. Two copies of the trade mark or a representation of the same by means of a drawing or engraving.

III. In case the trade mark is intaglio or in relief, or has some other peculiarity, two other sheets shall also be forwarded upon which these particulars shall appear, either by means of one or more detail drawings or by a written description.

IV. The written commission contract, by virtue of which the agency shall have been established, duly legalized, in cases to which the second part of the foregoing article refers.

ART. 6. The application shall set forth the name of the manufactory, its location, the residence of the proprietor, and the kind of trade or industry in which the applicant desires to use the trade mark.

ART. 7. An industrial or mercantile trade mark belonging to a foreigner not residing in this Republic, can not be registered therein unless previously and regularly registered in the country of its origin.

ART. 8. The person who has first made legal use of a trade mark is the only person who may acquire ownership thereof. In case of a contest between two owners of the same mark,

the ownership shall be vested in the original possessor, or, in case the possession can not be proven, in the first applicant.

**ART. 9.** The exclusive ownership of a trade mark shall not be exercised except by virtue of its registration in the Mercantile Tribunal, a declaration having been previously made by the interested party to the effect that he has reserved his rights after having complied with all legal requisites.

**ART. 10.** The declaration referred to in the preceding article shall be made without previous examination, on the exclusive responsibility of the applicant, and without prejudice to the rights of third parties.

The Mercantile Tribunal shall cause the application of the interested party to be published three times in the official newspaper, and if there is no opposition within the ninety days following it shall make the declaration referred to in article 9, ordering at the same time the registration of the trade mark, and returning to the interested party one of the copies with the reason therefor, and an annotation that 3 pesos have been paid as a registration fee. In case there is a contest the contending parties shall be cited to settle their dispute before the corresponding courts, which shall decide in favor of the party who is entitled to registration.

**ART. 11.** Trade marks can only be transferred with the business for whose manufacture or trade they serve as a distinctive device. The transfer, however, is not subject to any special formality and shall be made according to the provisions of law.

**ART. 12.** The duration of the ownership of trade marks is indefinite, but the right shall be considered as abandoned by the closing, or failure to produce for more than a year, of the establishment, manufactory, or business employing the same.

**ART. 13.** Trade marks deposited shall be preserved in the archives of the Mercantile Tribunal, where the registration may be examined by any person so desiring, and who, at his own expense, may obtain a certified copy of the same.

**ART. 14.** The property of a trade mark obtained in violation of the foregoing provisions shall be judicially declared void on application of the interested party.

**ART. 15.** Final decisions declaring a trade mark to be void

shall be communicated, for the purposes of cancellation, to the Mercantile Tribunal where it was registered.

ART. 16. The offense of counterfeiting trade marks is committed:

I. By the use of facsimiles of a registered trade mark.

II. By the imitation of a registered mark in such a perfect manner as to cause it, although it may differ in certain details, to be taken for another that has been legally obtained.

ART. 17. All persons who have counterfeited or made use of a counterfeit trade mark, whatever may have been the place in which it has occurred, provided it be in connection with articles of the same industrial or commercial character, shall be guilty of the crime of counterfeiting.

ART. 18. Crimes of counterfeiting trade marks shall be punished according to the provisions of the penal code.

ART. 19. The provisions of this law shall also cover products of agriculture as well as drawings and industrial trade marks.

## UNITED STATES OF AMERICA.

## PATENT LAWS.

[*The constitutional provision.*—The Congress shall have power \* \* \* to promote the progress of Science and Useful Arts, by securing for limited times to Authors and Inventors the exclusive right to their respective writings and discoveries.]

## STATUTES.

## ORGANIZATION OF THE PATENT OFFICE.

TITLE XI, Rev. Stat., p. 80:

SEC. 475. There shall be in the Department of the Interior an office known as the Patent Office, where all records, books, models, drawings, specifications, and other papers and things pertaining to patents shall be safely kept and preserved.

SEC. 476. There shall be in the Patent Office a Commissioner of Patents, one Assistant Commissioner, and three examiners-in-chief, who shall be appointed by the President, by and with the advice and consent of the Senate. All other officers, clerks, and employés authorized by law for the Office shall be appointed by the Secretary of the Interior, upon the nomination of the Commissioner of Patents. [See § 169.]

SEC. 477. The salaries of the officers mentioned in the preceding section shall be as follows:

The Commissioner of Patents, four thousand five hundred dollars a year.

The Assistant Commissioner of Patents, three thousand dollars a year.

Three examiners-in-chief, three thousand dollars a year each.

TITLE XI, Rev. Stat., p. 74:

SEC. 440. There shall also be in the Department of the Interior—

\* \* \* \* \*

In the Patent Office:

One chief clerk, at a salary of two thousand five hundred dollars a year.

One examiner in charge of interferences, at a salary of two thousand five hundred dollars a year.

One examiner in charge of trade marks, at a salary of two thousand five hundred dollars a year.

Twenty-four principal examiners, at a salary of two thousand five hundred dollars a year each.

Twenty-four first assistant examiners, at a salary of one thousand eight hundred dollars a year each.

Twenty-four second assistant examiners (two of whom may be women), at a salary of one thousand six hundred dollars a year each.

Twenty-four third assistant examiners, at a salary of one thousand four hundred dollars a year each.

One librarian, at a salary of two thousand dollars a year.

One machinist, at a salary of one thousand six hundred dollars a year.

Three skilled draughtsmen, at a salary of one thousand two hundred dollars a year each.

Thirty-five copyists of drawings, at a salary of one thousand dollars a year each.

One messenger and purchasing clerk, at a salary of one thousand dollars a year.

One skilled laborer, at a salary of one thousand two hundred dollars a year.

Eight attendants in the model-room, at a salary of one thousand dollars a year each.

Eight attendants in the model-room, at a salary of nine hundred dollars a year each.

Patent Office: For the Commissioner of Patents, five thousand dollars; Assistant Commissioner, who shall perform such duties pertaining to the office of Commissioner as may be assigned to him by the Commissioner, three thousand dollars; chief clerk, two thousand five hundred dollars; two law clerks, at two thousand five hundred dollars each; three examiners in chief, at three thousand dollars each; examiner of internees, two thousand five hundred dollars; thirty-nine principal examiners, at two thousand five hundred dollars each; forty-two first assistant examiners, at one thousand eight hundred dollars each; fifty second assistant examiners, at one thousand six hundred dollars each; sixty-one third assistant

examiners, at one thousand four hundred dollars each; seventy four assistant examiners, at one thousand two hundred dollars each; financial clerk, who shall give bonds in such amount as the Secretary of the Interior may determine, two thousand two hundred and fifty dollars; librarian, two thousand dollars; five chiefs of division, at two thousand dollars each; three assistant chiefs of division, at one thousand eight hundred dollars each; seven clerks of class four, one of whom shall act as application clerk; machinist, one thousand six hundred dollars; seven clerks of class three, one of whom shall be translator of languages; fourteen clerks of class two; sixty-seven clerks of class one; skilled laborer, one thousand two hundred dollars; three skilled draftsmen, at one thousand two hundred dollars each; four draftsmen, at one thousand dollars each; twenty-seven permanent clerks, at one thousand dollars each; messenger and property clerk, one thousand dollars; five model attendants, at one thousand dollars each; ten model attendants, at eight hundred dollars each; one hundred and six copyists, seven of whom may be copyists of drawings; thirty-one copyists, at seven hundred and twenty dollars each; three messengers; twenty-six assistant messengers; fifty-one laborers, at six hundred dollars each; fifty laborers, at four hundred and eighty dollars each; thirty-nine messenger boys, at three hundred and sixty dollars each; in all, eight hundred and fifty-one thousand nine hundred and fifty dollars.

Patent Office: One examiner of trade marks and designs, two thousand five hundred dollars; two first assistant examiners, at one thousand eight hundred dollars each; two second assistant examiners, at one thousand six hundred dollars each; two third assistant examiners, at one thousand four hundred dollars each; three fourth assistant examiners, at one thousand two hundred dollars each; one clerk of class two, and three clerks of class one; in all, twenty thousand seven hundred dollars.

For the share of the United States in the expense of conducting the International Bureau at Berne, Switzerland, seven hundred and fifty dollars.

TITLE XI, Rev. Stat., p. 75:

SEC. 441. The Secretary of the Interior is charged with the

supervision of public business relating to the following subjects:

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Fifth. Patents for inventions.

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*Jurisdiction of the Secretary on appeal from Commissioner.*—Butterworth *v.* Hoe, 112 U. S., 50-60; 29 O. G., 615.

TITLE XI, Rev. Stat., p. 80:

SEC. 478. The seal heretofore provided for the Patent Office shall be the seal of the Office, with which letters patent and papers issued from the Office shall be authenticated.

SEC. 479. The Commissioner of Patents and the chief clerk, before entering upon their duties, shall severally give bond, with sureties, to the Treasurer of the United States, the former in the sum of ten thousand dollars and the latter in the sum of five thousand dollars, conditioned for the faithful discharge of their respective duties, and that they shall render to the proper officers of the Treasury a true account of all money received by virtue of their offices.

SEC. 480. All officers and employés of the Patent Office shall be incapable, during the period for which they hold their appointments, to acquire or take, directly or indirectly, except by inheritance or bequest, any right or interest in any patent issued by the Office.

SEC. 481. The Commissioner of Patents, under the direction of the Secretary of the Interior, shall superintend or perform all duties respecting the granting and issuing of patents directed by law; and he shall have charge of all books, records, papers, models, machines, and other things belonging to the Patent Office.

*Duties of Commissioner.*—Butterworth *v.* Hoe, 112 U. S., 50; 29 O. G., 615.

SEC. 482. The examiners-in-chief shall be persons of competent legal knowledge and scientific ability, whose duty it shall be, on the written petition of the appellant, to revise and determine upon the validity of the adverse decisions of examiners upon applications for patents, and for reissues of patents, and in interference cases; and when required by the Commissioner, they shall hear and report upon claims for extensions, and perform such other like duties as he may assign them.

SEC. 483. The Commissioner of Patents, subject to the approval of the Secretary of the Interior, may from time to time

establish regulations, not inconsistent with law, for the conduct of proceedings in the Patent Office.

SEC. 484. The Commissioner of Patents shall cause to be classified and arranged in suitable cases, in the rooms and galleries provided for that purpose, the models, specimens of composition, fabrics, manufactures, works of art, and designs, which have been or shall be deposited in the Patent Office; and the rooms and galleries shall be kept open during suitable hours for public inspection.

SEC. 485. The Commissioner of Patents may restore to the respective applicants such of the models belonging to rejected applications as he shall not think necessary to be preserved, or he may sell or otherwise dispose of them after the application has been finally rejected for one year, paying the proceeds into the Treasury, as other patent moneys are directed to be paid.

SEC. 486. There shall be purchased for the use of the Patent Office a library of such scientific works and periodicals, both foreign and American, as may aid the officers in the discharge of their duties, not exceeding the amount annually appropriated for that purpose.

For purchase of professional and scientific books and expenses of transporting publications of patents issued by the Patent Office to foreign governments, two thousand five hundred dollars.

For purchase of law books, five hundred dollars.

SEC. 487. For gross misconduct the Commissioner of Patents may refuse to recognize any person as a patent-agent, either generally or in any particular case; but the reasons for such refusal shall be duly recorded, and be subject to the approval of the Secretary of the Interior.

SEC. 488. The Commissioner of Patents may require all papers filed in the Patent Office, if not correctly, legibly, and clearly written, to be printed at the cost of the party filing them.

SEC. 489. The Commissioner of Patents may print, or cause to be printed, copies of the claims of current issues, and copies of such laws, decisions, regulations, and circulars as may be necessary for the information of the public.

SEC. 490. The Commissioner of Patents is authorized to have

printed, from time to time, for gratuitous distribution, not to exceed one hundred and fifty copies of the complete specifications and drawings of each patent hereafter issued, together with suitable indexes, one copy to be placed for free public inspection in each capitol of every State and Territory, one for the like purpose in the clerk's office of the district court of each judicial district of the United States, except when such offices are located in State or Territorial capitols, and one in the Library of Congress, which copies shall be certified under the hand of the Commissioner and seal of the Patent Office, and shall not be taken from the depositories for any other purpose than to be used as evidence. [See § 894.]

SEC. 491. The Commissioner of Patents is authorized to have printed such additional numbers of copies of specifications and drawings, certified as provided in the preceding section, at a price not to exceed the contract price for such drawings, for sale, as may be warranted by the actual demand for the same; and he is also authorized to furnish a complete set of such specifications and drawings to any public library which will pay for binding the same into volumes to correspond with those in the Patent Office and for the transportation of the same, and which shall also provide for proper custody for the same, with convenient access for the public thereto, under such regulations as the Commissioner shall deem reasonable.

SEC. 492. The lithographing and engraving required by the two preceding sections shall be awarded to the lowest and best bidders for the interests of the Government, due regard being paid to the execution of the work, after due advertising by the Congressional Printer under the direction of the Joint Committee on Printing; but the Joint Committee on Printing may empower the Congressional Printer to make immediate contracts for engraving whenever, in their opinion, the exigencies of the public service will not justify waiting for advertisement and award; or if, in the judgment of the Joint Committee on Printing, the work can be performed under the direction of the Commissioner of Patents more advantageously than in the manner above described, it shall be so done, under such limitations and conditions as the Joint Committee on Printing may from time to time prescribe.

SEC. 12. That it shall be the duty of the Commissioner of

Patents to furnish, free of cost, one copy of the bound volumes of specifications and drawings of patents published by the Patent Office to each of the Executive Departments of the Government, upon the request of the head thereof.

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The Commissioner of Patents, upon the requisition of the Secretary of the Interior, is authorized to continue the printing of the following:

First. The patents for inventions and designs issued by the Patent Office, including grants, specifications, and drawings, together with copies of the same, and of patents already issued, in such number as may be needed for the business of the Office.

Second. The certificates of trade marks and labels registered in the Patent Office, including descriptions and drawings, together with copies of the same, and of trade marks and labels heretofore registered, in such numbers as may be needed for the business of the Office.

Third. The Official Gazette of the United States Patent Office in numbers sufficient to supply all who shall subscribe therefor at five dollars per annum; also to exchange for other scientific publications desirable for the use of the Patent Office; also to supply one copy to each Senator, Representative, and Delegate in Congress; also to supply one copy to eight such public libraries having over one thousand volumes, exclusive of Government publications, as shall be designated by each Senator, Representative, and Delegate in Congress, with one hundred additional copies, together with bimonthly and annual indexes for all the same; of the Official Gazette the "usual number" shall not be printed.

Fourth. The Report of the Commissioner of Patents for the fiscal year, not exceeding five hundred in number, for distribution by him; the Annual Report of the Commissioner of Patents to Congress, without the list of patents, not exceeding one thousand five hundred in number, for distribution by him; and of the Annual Report of the Commissioner of Patents to Congress, with the list of patents, five hundred copies for sale by him, if needed, and in addition thereto the "usual number" only shall be printed.

Fifth. Copies of the specifications and drawings of each patent issued, bound in monthly volumes, one copy for each

of the Executive Departments of the Government, one copy to be placed for free public inspection in each capitol of every State and Territory, one for the like purpose in the clerk's office of the district court of each judicial district of the United States, except when such offices are located in State or Territorial capitols, and one in the Library of Congress, which copies shall be certified under the hand of the Commissioner and seal of the Patent Office, and shall not be taken from the depositories for any other purpose than to be used as evidence; also one hundred additional copies of the same, for sale by him at a price to be fixed by the Secretary of the Interior. The "usual number" shall not be printed.

Sixth. Pamphlet copies of the rules of practice, pamphlet copies of the patent laws, and pamphlet copies of the laws and rules relating to trade marks and labels, and circulars relating to the business of the Office, all in such numbers as may be needed for the business of the Office. The "usual number" shall not be printed.

Seventh. Annual volumes of the decisions of the Commissioner of Patents and of the United States courts in patent cases, not exceeding one thousand five hundred in number, of which the "usual number" shall be printed, and for this purpose a copy of each shall be transmitted to Congress promptly when prepared.

Eighth. Indexes to patents relating to electricity, and indexes to foreign patents, in such numbers as may be needed for the business of Office. The "usual number" shall not be printed.

All printing for the Patent Office making use of lithography or photolithography, together with the plates for the same, shall be contracted for and performed under the direction of the Commissioner of Patents, under such limitations and conditions as the Joint Committee on Printing may from time to time prescribe, and all other printing for the Patent Office shall be done by the Public Printer under such limitations and conditions as the Joint Committee on Printing may from time to time prescribe: *Provided*, That the entire work may be done at the Government Printing Office whenever in the judgment of the Joint Committee on Printing the same would be to the interest of the Government.

For photolithographing or otherwise producing plates and illustrations for the Official Gazette, eighty thousand dollars; for work to be done at the Government Printing Office, in producing the Official Gazette, including the letter-press, the weekly, monthly, bimonthly, and annual indexes therefor, exclusive of expired patents, one hundred thousand dollars; in all, one hundred and eighty thousand dollars.

For producing the Official Gazette, including weekly, monthly, bimonthly, and annual indexes therefor, exclusive of expired patents, eighty thousand dollars.

For producing copies of drawings of the weekly issues of patents, for producing copies of designs, trade marks, and pending applications, and for the reproduction of exhausted copies of drawings and specifications; said work referred to in this and the preceding paragraph to be done as provided by the "Act providing for the public printing and binding and for the distribution of public documents:" *Provided*, That the entire work may be done at the Government Printing Office if, in the judgment of the Joint Committee on Printing, or if there shall be no Joint Committee, in the judgment of the Committee on Printing of either House, it shall be deemed to be for the best interests of the Government, one hundred and thirty thousand dollars.

For producing copies of drawings of the weekly issues of patents, for producing copies of designs, trade marks, and pending applications, and for the reproduction of exhausted copies of drawings and specifications; said work referred to in this and the preceding paragraph to be done as provided by the "Act providing for the public printing and binding and for the distribution of public documents:" *Provided*, That the entire work may be done at the Government Printing Office if, in the judgment of the Joint Committee on Printing, or if there shall be no Joint Committee, in the judgment of the Committee on Printing of either House, it shall be deemed to be for the best interests of the Government, forty thousand dollars.

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TITLE XI, Rev. Stat., p. 82:

SEC. 493. The price to be paid for uncertified printed copies of specifications and drawings of patents shall be determined

by the Commissioner of Patents: *Provided*, That the maximum cost of a copy shall be ten cents.

SEC. 494. The Commissioner of Patents shall lay before Congress, in the month of January, annually, a report, giving a detailed statement of all moneys received for patents, for copies of records or drawings, or from any other source whatever; a detailed statement of all expenditures for contingent and miscellaneous expenses; a list of all patents which were granted during the preceding year; designating under proper heads the subjects of such patents; an alphabetical list of all the patentees, with their places of residence; a list of all patents which have been extended during the year; and such other information of the condition of the Patent office as may be useful to Congress or the public. [See §§ 195, 196.]

SEC. 496. All disbursements for the Patent Office shall be made by the disbursing clerk of the Interior Department.

SEC. 7. That in every case where the head of any Department of the Government shall request the Commissioner of Patents to expedite the consideration of an application for a patent it shall be the duty of such head of a Department to be represented before the Commissioner in order to prevent the improper issue of a patent.

#### COURTS.

SEC. 629. The circuit courts shall have original jurisdiction as follows:

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Ninth. Of all suits at law or in equity arising under the patent or copyright laws of the United States.

*Supreme court of the District of Columbia in patent causes has circuit court jurisdiction.*—Cochrane *v.* Deener, 94 U. S., 780; 11 O. G., 687.

*Jurisdiction.*—Hartell *v.* Tilghman, 99 U. S., 547. Albright *v.* Teas, 106 U. S., 613; 23 O. G., 829. Oliver Co. *v.* Chem. Works, 109 U. S., 75; 25 O. G., 784. Marsh *v.* Nichols et al., 140 U. S., 344; 55 O. G., 259. White *v.* Rankin, 144 U. S., 628; 59 O. G., 1606.

*Court of Claims.*—U. S. *v.* McKeever, 23 O. G., 1530. U. S. *v.* Palmer, 128 U. S., 262-372. Hollister *v.* Benedict, 113 U. S., 59-73. Schillinger *v.* U. S., 155 U. S., 163; 69 O. G., 1505. U. S. *v.* Berdan Mfg. Co., 156 U. S., 552.

*Jurisdiction of circuit court.*—St. Paul Plow Works *v.* Starling, 127 U. S., 376-378; 43 O. G., 1350.

*Jurisdiction to annul patents.*—U. S. *v.* Bell Telephone Co., 128 U. S., 315-373; 45 O. G., 311. Mowry *v.* Whitney, 14 Wall., 343; 1 O. G., 492.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That in suits brought for the infringement of letters patent the

circuit courts of the United States shall have jurisdiction, in law or in equity, in the district of which the defendant is an inhabitant, or in any district in which the defendant, whether a person, partnership, or corporation, shall have committed acts of infringement and have a regular and established place of business. If such suit is brought in a district of which the defendant is not an inhabitant, but in which such defendant has a regular and established place of business, service of process, summons, or subpoena upon the defendant may be made by service upon the agent or agents engaged in conducting such business in the district in which suit is brought.

SEC. 690. The Supreme Court shall have appellate jurisdiction in the cases hereinafter specially provided for.

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*Costs.*—*Elastic Fab. Co. v. Smith*, 100 U. S., 110.

*Violation of injunction, jurisdiction on appeal.*—*Warden v. Searles*, 121 U. S., 14-27; 39 O. G., 359. *California Co. v. Molitor*, 113 U. S., 609; 31 O. G., 1044.

*Appeals in regard to applications for patents.*—*Durham v. Seymour*, 161 U. S., 235; 74 O. G., 1781.

*Suit by United States to annul patents.*—*United States v. Bell Tel. Co.*, 159 U. S., 548; 78 O. G., 1285.

*Jurisdiction.*—*Wood Mach. Co. v. Skinner*, 139 U. S., 293; 54 O. G., 1891. *Dolan v. Jennings*, 139 U. S., 385; 55 O. G., 141.

*Appeal.*—*Fowler v. Hamill*, 139 U. S., 549; 55 O. G., 715.

SEC. 699. A writ of error may be allowed to review any final judgment at law, and an appeal shall be allowed from any final decree in equity hereinafter mentioned, without regard to the sum or value in dispute:

First. Any final judgment at law or final decree in equity of any circuit court, or of any district court acting as a circuit court, or of the supreme court of the District of Columbia, or of any Territory, in any case touching patent-rights or copy-rights.

*Writ of error to a State court considered.*—*Wood Co. v. Skinner*, 139 U. S., 293-297; 54 O. G., 1891. *Felix v. Scharuweber*, 125 U. S., 54-60; 43 O. G., 251.

SEC. 711. The jurisdiction vested in the courts of the United States in the cases and proceedings hereinafter mentioned, shall be exclusive of the courts of the several States:

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SEC. 8. That this Act shall take effect January first, eighteen hundred and ninety-eight, and sections one, two, three, and four, amending sections forty-eight hundred and eighty-six, forty-nine hundred and twenty, forty-eight hundred and eighty-seven, and forty-eight hundred and ninety-four of the Revised

Statutes, shall not apply to any patent granted prior to said date, nor to any application filed prior to said date, nor to any patent granted on such an application.

Fifth. Of all cases arising under the patent-right or copyright laws of the United States.

*No action in a United States court upon a contract for royalties when both parties are citizens of same State.*—Allbright *v.* Teas, 106 U. S., 615; 23 O. G., 829. Oliver Co. *v.* Chem. Works, 109 U. S., 75; 25 O. G., 784.

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SEC. 2. That there is hereby created in each circuit a circuit court of appeals, which shall consist of three judges, of whom two shall constitute a quorum, and which shall be a court of record with appellate jurisdiction, as is hereafter limited and established.

SEC. 4. That no appeal, whether by writ of error or otherwise, shall hereafter be taken or allowed from any district court to the existing circuit courts, and no appellate jurisdiction shall hereafter be exercised or allowed by said existing circuit courts, but all appeals by writ of error or otherwise, from said district courts, shall only be subject to review in the Supreme Court of the United States or in the circuit court of appeals hereby established, as is hereinafter provided, and the review, by appeal, by writ of error, or otherwise, from the existing circuit courts, shall be had only in the Supreme Court of the United States or in the circuit courts of appeals hereby established according to the provisions of this act regulating the same.

*Will not be allowed from court of appeals in regard to the registration of a trade-mark.*—South Carolina *v.* Seymour, 153 U. S., 353; 67 O. G., 1191.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the second section of an Act to establish circuit courts of appeals, passed March third, eighteen hundred and ninety-one, be amended so that the clause therein which now reads, "The costs and fees in the Supreme Court now provided for by law shall be costs and fees in the circuit courts of appeals," shall read, "The costs and fees in each circuit court of appeals shall be fixed and established by said court in a table of fees, to be adopted within three months after the passage of this Act: Provided, That the costs and fees so fixed by any court of appeals shall not, with respect to any item, exceed the costs*

and fees now charged in the Supreme Court." Each circuit court of appeals shall, within three months after the fixing and establishing of costs and fees as aforesaid, transmit said table to the Chief Justice of the United States, and within one year thereof the Supreme Court of the United States shall revise said table, making the same, so far as may seem just and reasonable, uniform throughout the United States. The table of fees, when so revised, shall thereupon be in force for each circuit.

SEC. 6. That the circuit courts of appeals established by this act shall exercise appellate jurisdiction to review by appeal or by writ of error final decision in the district court and the existing circuit courts in all cases other than those provided for in the preceding section of this act, unless otherwise provided by law, and the judgments or decrees of the circuit courts of appeals shall be final in all cases in which the jurisdiction is dependent entirely upon the opposite parties to the suit or controversy, being aliens and citizens of the United States or citizens of different States; also in all cases arising under the patent laws, under the revenue laws, and under the criminal laws and in admiralty cases, excepting that in every such subject within its appellate jurisdiction the circuit court of appeals at any time may certify to the Supreme Court of the United States any questions or propositions of law concerning which it desires the instruction of that court for its proper decision. And thereupon the Supreme Court may either give its instruction on the questions and propositions certified to it, which shall be binding upon the circuit courts of appeals in such case, or it may require that the whole record and cause may be sent up to it for its consideration, and thereupon shall decide the whole matter in controversy in the same manner as if it had been brought there for review by writ of error or appeal.

And excepting that in any such case as is hereinbefore made final in the circuit court of appeals it shall be competent for the Supreme Court to require, by certiorari or otherwise, any such case to be certified to the Supreme Court for its review and determination with the same power and authority in the case as if it had been carried by appeal or writ of error to the Supreme Court.

In all cases not hereinbefore, in this section, made final there

shall be of right an appeal or writ of error or review of the case by the Supreme Court of the United States where the matter in controversy shall exceed one thousand dollars besides costs. But no such appeal shall be taken or writ of error sued out unless within one year after the entry of the order, judgment, or decree sought to be reviewed.

*Actual defendants may appeal without special consent of nominal defendants.*—*Andrews v. Thum*, 64 F. R., 149.

*Appeal on interlocutory motions.*—*Columbus Watch Co. v. Robbins*, 52 F. R., 337; 62 O. G., 1963; 148 U. S., 266; 63 O. G., 154.

*Rule of comity between appeal court and circuit court.*—*Wanamaker v. Mfg. Co.*, 53 F. R., 791; 63 O. G., 156.

*Interlocutory order or decree and final decree defined.*—*Standard Co. v. Crane Co.*, 77 O. G., 811.

*Appeal must be taken within thirty days.*—*Raymond v. Royal Co.*, 76 F. R., 465; 77 O. G., 1124.

*Jurisdiction on appeal.*—*Boston, etc., Co. v. Pullman Co.*, 51 F. R., 305; 61 O. G., 428. *Richmond v. Atwood*, 48 F. R., 910; 61 O. G., 1655.

### TITLE XIII, Rev. Stat., p. 169:

SEC. 892. Written or printed copies of any records, books, papers, or drawings belonging to the Patent Office, and of letters patent authenticated by the seal and certified by the Commissioner or Acting Commissioner thereof shall be evidence in all cases wherein the originals could be evidence; and any person making application therefor, and paying the fee required by law, shall have certified copies thereof.

*Certified copy of patent as evidence.*—*Oregon Co. v. Excelsior Co.*, 132 U. S., 215-216; 49 O. G., 1694.

*Certified copy of record of assignment as evidence.*—*Am. Cable Co. v. Mayor, Etc., of N. Y.*, 60 F. R., 1016; 67 O. G., 1334.

SEC. 893. Copies of the specifications and drawings of foreign letters patent certified as provided in the preceding section, shall be *prima facie* evidence of the fact of the granting of such letters patent, and of the date and contents thereof.

SEC. 894. The printed copies of specifications and drawings of patents, which the Commissioner of Patents is authorized to print for gratuitous distribution, and to deposit in the capitols of the States and Territories, and in the clerk's offices of the district courts, shall, when certified by him and authenticated by the seal of his office, be received in all courts as evidence of all matters therein contained. [See § 490.]

SEC. 973. When judgment or decree is rendered for the plaintiff or complainant, in any suit at law or in equity, for the infringement of a part of a patent, in which it appears that the patentee, in his specification, claimed to be the original and first inventor or discoverer of any material or substantial part

of the thing patented, of which he was not the original and first inventor, no costs shall be recovered, unless the proper disclaimer, as provided by the patent laws, has been entered at the Patent Office before the suit was brought. [See §§ 4917, 4922.]

SEC. 1537. No patented article connected with marine engines shall hereafter be purchased or used in connection with any steam vessels of war until the same shall have been submitted to a competent board of naval engineers, and recommended by such board, in writing, for purchase and use.

TITLE XVII, Rev. Stat., p. 292:

SEC. 1673. No royalty shall be paid by the United States to any one of its officers or employés for the use of any patent for the system, or any part thereof, mentioned in the preceding section, nor for any such patent in which said officers or employés may be directly or indirectly interested.

#### PATENTS.

TITLE LX, Rev. Stat., 1878, chap. 1, p. 945:

SEC. 4883. All patents shall be issued in the name of the United States of America, under the seal of the Patent Office, and shall be signed by the Commissioner of Patents, and they shall be recorded, together with the specifications, in the Patent Office in books to be kept for that purpose.

*Omission of signature of the Secretary.*—*Marsh v. Nichols Co.*, 128 U. S., 605-616; 46 O. G., 239.

All patents for inventions signed by David L. Hawkins, Second Assistant Secretary of the Interior, or any other Assistant Secretary of the Interior, shall have the same force, effect, and validity as though the same had been signed by the Secretary of the Interior in person at the date on which they were respectively executed.

SEC. 4884. Every patent shall contain a short title or description of the invention or discovery, correctly indicating its nature and design, and a grant to the patentee, his heirs or assigns, for the term of seventeen years, of the exclusive right to make, use, and vend the invention or discovery throughout the United States and the Territories thereof, referring to the specification for the particulars thereof. A copy of the speci-

ification and drawings shall be annexed to the patent and be a part thereof.

*Patented articles subject to State police laws.*—*Patterson v. Kentucky*, 97 U. S., 501. *Webber v. State of Va.*, 103 U. S., 344; 20 O. G., 369. *Patents are property.*—*Densmore v. Scofield*, 102 U. S., 375; 19 O. G., 289. *Government has no right to use patented inventions without compensation.*—*James v. Campbell*, 104 U. S., 356; 21 O. G., 337.

SEC. 4885. Every patent shall bear date as of a day not later than six months from the time at which it was passed and allowed and notice thereof was sent to the applicant or his agent; and if the final fee is not paid within that period the patent shall be withheld.

*Date of patent after correction.*—*Marsh v. Nichols Co.*, 128 U. S., 605; 46 O. G., 239.

SEC. 4886. Any person who has invented or discovered any new and useful art, machine, manufacture, or composition of matter, or any new and useful improvements thereof, not known or used by others in this country, before his invention or discovery thereof, and not patented or described in any printed publication in this or any foreign country, before his invention or discovery thereof, or more than two years prior to his application, and not in public use or on sale in this country for more than two years prior to his application, unless the same is proved to have been abandoned, may, upon payment of the fees required by law, and other due proceeding had, obtain a patent therefor.

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For investigating the question of the public use or sale of inventions for two years or more prior to filing applications for patents, and for expenses attending defense of suits instituted against the Commissioner of Patents, two hundred and fifty dollars:

*Abandoned experiments.*—*Seymour v. Osborne*, 11 Wall., 516. *Corn Planter Patent*, 23 Wall., 181; 6 O. G., 392. *Wood Paper Pat.*, 23 Wall., 566. *Deering v. Winona Works*, 155 U. S., 286; 69 O. G., 1641. *West. Elec. Co. v. Sperry Elec. Co.*, 58 F. R., 186; 65 O. G., 597.

*Abandonment of invention.*—*Rifle Co. v. Whitney Co.*, 118 U. S., 22; 35 O. G., 873.

*Act of Invention.*—*Wells v. Curtis*, 66 F. R., 318; 74 O. G., 495.

*Aggregation.*—*Hailes v. Van Wormer*, 20 Wall., 353. *Reckendorfer v. Faber*, 92 U. S., 347; 10 O. G., 71. *Rubber Co. v. Welling*, 97 U. S., 7; 13 O. G., 727. *Bussey v. Excelsior Co.*, 110 U. S., 181; 26 O. G., 733. *Beecher Co. v. Atwater Co.*, 114 U. S., 523; 31 O. G., 1306. *Hendry v. Golden State, Etc.*, 127 U. S., 370; 43 O. G., 1117. *Thatcher Heating Co. v. Burtis*, 121 U. S., 286; 39 O. G., 587. *Union Edge Setter Co. v. Keith*, 139 U. S., 530; 55 O. G., 285. *Cluett v. Clafin*, 140 U. S., 180; 55 O. G., 999. *Patent Clothing Co. v. Glover*, 141 U. S., 560; 57 O. G., 1287. *Derby v. Thompson*, 146 U. S., 476; 61 O. G., 1950. *Ide v. Ball Engine Co.*, 149 U. S., 550; 63 O. G., 1529. *Giles v. Heyisinger*, 150 U. S., 627. *Richards v. Chase*, 158 U. S., 299; 71 O. G., 1456. *Richards v. Chase*, 159 U. S., 477; 73 O. G., 1710. *Palmer v. Corning*, 156 U. S., 342; 70 O. G., 1497. *Deere & Co. v. Case Plow Works*, 56 F. R., 841; 65 O. G., 441. *Griswold*, 78 O. G., 482.

*Aggregation and combination distinguished.*—Stephenson *v.* Brooklyn Co., 114 U. S., 149; 31 O. G., 263. Snyder, 78 O. G., 485.

*Anticipation of combination claim.*—Cantrell *v.* Wallick, 117 U. S., 689; 35 O. G., 871. Sutter *v.* Robinson, 119 U. S., 530; 38 O. G., 230. Flower *v.* City of Detroit, 127 U. S., 563; 43 O. G., 1348. Wollensak *v.* Sargent & Co., 151 U. S., 221; 66 O. G., 1007. Cons. Roller Mill Co. *v.* Barnard & Leas Co., 156 U. S., 261; 70 O. G., 1065. American, Etc., Co. *v.* Pennock, Etc., Co., 17 S. C. Reporter, 1; 77 O. G., 633. Cochrane *v.* Deener, 94 U. S., 780; 11 O. G., 687. Roemer *v.* Simon, 95 U. S., 214; 12 O. G., 796. Illinois Co. *v.* Robbins, 52 F. R., 215; 61 O. G., 721.

*Art, machine, manufacture or composition of matter—Double use—Aggregation.*—County of Fond du Lac *v.* May, 137 U. S., 395; 53 O. G., 1884.

*Article of manufacture.*—Union Paper Col. Co. *v.* Van Dusen, 23 Wall., 530; 7 O. G., 919. Cohn *v.* U. S. Corset Co., 93 U. S., 366; 11 O. G., 457. Andrews *v.* Thum, 67 F. R., 911; 72 O. G., 899.

*Article distinguished from method of making.*—Cochrane *v.* Badische, 111 U. S., 293; 27 O. G., 813.

*Change of material.*—Hicks *v.* Kelsey, 18 Wall., 670. Smith *v.* Goodyear, 93 U. S., 486; 11 O. G., 246. Terhune *v.* Phillips, 99 U. S., 592. Brown *v.* District of Columbia, 130 U. S., 87; 47 O. G., 398. Florsheim *v.* Schilling, 137 U. S., 64; 53 O. G., 1737. Cheneau *v.* Comr. of Patents, 5 Tucker, 197; 70 O. G., 924. Kilbourne *v.* Bingham Co., 50 F. R., 697; 60 O. G., 577. Edison Elec. Co. *v.* U. S. Co., 52 F. R., 300; 61 O. G., 564.

*Change of parts.*—Ives *v.* Hamilton, 92 U. S., 426; 10 O. G., 336. Werner *v.* King, 96 U. S., 218; 13 O. G., 176. Mach. Co. *v.* Murphy, 97 U. S., 120. Thomson-Houston Co. *v.* Western Co., 75 O. G., 347; 72 F. R., 530.

*Change in shape.*—Butler *v.* Steckel, 137 U. S., 21-30; 52 O. G., 1090.

*Derree.*—Planting Mach. Co. *v.* Keith, 101 U. S., 479; 17 O. G., 1031. Ansonia Brass Co. *v.* Elec. Supply Co., 144 U. S., 11; 58 O. G., 1692. Burt *v.* Evory, 133 U. S., 349; 50 O. G., 1294. Wright *v.* Yuengling, 155 U. S., 47; 69 O. G., 639.

*Double use.*—Tucker *v.* Spaulding, 13 Wall., 458. Brown *v.* Piper, 91 U. S., 37; 10 O. G., 417. Roberts *v.* Ryer, 91 U. S., 150; 10 O. G., 204. Vinton *v.* Hamilton, 104 U. S., 465; 21 O. G., 557. Blake *v.* San Francisco, 113 U. S., 679; 31 O. G., 380. Railroad Co. *v.* Safety Truck Co., 110 U. S., 490; 27 O. G., 207. Window Cleaner Co. *v.* Bosley, 15 Brodix, 64. Crescent Brewing Co. *v.* Gottfried, 128 U. S., 158; 45 O. G., 944. Peters *v.* Hanson, 129 U. S., 541; 47 O. G., 945. St. Germain *v.* Brunswick, 135 U. S., 227; 51 O. G., 1129. Howe Machine Co. *v.* National Co., 134 U. S., 388-398; 51 O. G., 475. Marchand *v.* Emken, 132 U. S., 195-200; 49 O. G., 1841. Day *v.* Fair Haven Co., 132 U. S., 98-103; 49 O. G., 1364. Busell-Trimmer Co. *v.* Stevens, 137 U. S., 423; 53 O. G., 2044. Lovell Mfg. Co. *v.* Cary, 147 U. S., 623; 62 O. G., 1821. Leggett *v.* Oil Co., 149 U. S., 287; 63 O. G., 1201. Market Street Co. *v.* Rowley, 155 U. S., 621; 70 O. G., 632. National Meter Co. *v.* Thompson Meter Co., 65 F. R., 427; 70 O. G., 925. Beach *v.* Inman Co., 71 F. R., 420; 74 O. G., 379. New Departure Co. *v.* Bevin Bros. Co., 73 F. R., 469; 75 O. G., 2196. Steiner Co. *v.* Adrian, 59 F. R., 132; 66 O. G., 1756. Zinsser v. Krueger, 48 F. R., 296; 58 O. G., 805.

*Double use and invention distinguished.*—Potts *v.* Creager, 155 U. S., 597; 70 O. G., 494. Taylor et al. *v.* Sawyer Co., 75 F. R., 301; 77 O. G., 452.

*Equivalents.*—Seymour *v.* Osborne, 11 Wall., 516. Smith *v.* Nichols, 21 Wall., 112. Gould *v.* Rees, 15 Wall., 187. Hyndman *v.* Roots, 97 U. S., 224; 13 O. G., 868. Mfg. Co. *v.* Mfg. Co., 12 Brod., 281. Imhauser *v.* Buerk, 101 U. S., 647; 17 O. G., 795. Goodyear Co. *v.* Davis, 102 U. S., 222; 19 O. G., 543. Wicke *v.* Ortrum, 103 U. S., 461; 19 O. G., 467. Guidet *v.* City of Brooklyn, 105 U. S., 566; 21 O. G., 1692. Clough *v.* Gilbert & Barker Co., 106 U. S., 178; 22 O. G., 2241. Kink *v.* Gallun, 109 U. S., 99; 25 O. G., 980. Consolidated Roller Mill Co. *v.* Walker, 138 U. S., 124; 54 O. G., 1415. Western Elec. Co. *v.* La Rue, 139 U. S., 601; 55 O. G., 571. McClain *v.* Ortmayer, 141 U. S., 419; 57 O. G., 1129. Myers *v.* Shovel Co., 141 U. S., 674; 57 O. G., 1722. Hoyt *v.* Horne, 145 U. S., 302; 59 O. G., 1764. Nat'l Hat Pouncing Co. *v.* Heddern, 148 U. S., 482; 63 O. G., 466. Brigham *v.* Coffin, 149 U. S., 557; 63 O. G., 1385. Erie Rub. Co. *v.* Am. Dunlop Tire Co., 70 F. R., 53; 74 O. G., 1443. Hunt Bros. *v.* Cassidy, 53 F. R., 257; 62 O. G., 1965. Briggs, 78 O. G., 189. McKay Co. *v.* Dizer, 61 F. R., 102; 68 O. G., 281. Jones Co. *v.* The Munger Co., 49 F. R., 61; 58 O. G., 274.

*Extensive use.*—Magowan *v.* N. Y. Belt & Pack Co., 141 U. S., 332; 57 O. G., 845. McClain *v.* Ortmayer, 141 U. S., 419; 57 O. G., 1129. McCreary *v.* Pa. Canal Co., 141 U. S., 459; 57 O. G., 1131. Gandy belt Co., 143 U. S., 587; 59 O. G., 1106. Grant *v.* Walter, 148 U. S., 547; 63 O. G., 910. Kremmentz *v.* Cottle Co., 148 U. S., 556; 69 O. G., 241. Duer *v.* Corbin Lock Co., 149 U. S., 216; 63 O. G., 1060. Keystone Mfg. Co. *v.* Adams, 151 U. S., 189; 66 O. G., 654. Olin *v.* Timkin, 155 U. S., 141; 69 O. G., 1361. Seabury *v.* Am Ende, 152 U. S., 561; 67 O. G., 401. Holmes *v.* Truman, 67 F. R., 542; 73 O. G., 448. Fox *v.* Perkins, 52 F. R., 205; 62 O. G., 160. Dueber Co. *v.* Robbins, 75 F. R., 17; 77 O. G., 154. Saunders *v.* Allen, 60 F. R., 610; 67 O. G., 1330. Watson *v.* Stevens, 51 F. R., 757; 60 O. G., 1884.

*Foreign publication.*—Rosewasser *v.* Spieth, 129 U. S., 47.

*Idea not patentable.*—Pencil Co. *v.* Howard, 20 Wall., 498; 7 O. G., 172.

*Inoperative structure.*—Mitchell *v.* Tilghman, 19 Wall., 287; 5 O. G., 299.

*Patent covers other analogous uses.*—Stow *v.* City of Chicago, 104 U. S., 547; 21 O. G., 790. W. & C. Wire Cloth Co. *v.* Clinton Wire Cloth Co., 67 F. R., 790; 72 O. G., 1046.

*Lack of invention generally.*—Lehigh Valley Co. *v.* Kearney, 158 U. S., 461. Belding Mfg. Co. *v.* Challenge Co., 151 U. S., 100; 67 O. G., 141. Morgan Envelope Co. *v.* Albany Co., 152 U. S., 425; 67 O. G., 271. Sargent *v.* Covert, 152 U. S., 516; 67 O. G., 403. Haughey *v.* Lee, 151 U. S., 282; 66 O. G., 1450. Western Elec. Co. *v.* Ansonia Co., 114 U. S., 447-453; 31 O. G., 1305. Estey *v.* Burdett, 109 U. S., 633; 26 O. G., 637. Hartshorn *v.* Saginaw Co., 119 U. S., 664-679; 38 O. G., 540. Preston *v.* Manard, 116 U. S., 661-664; 34 O. G., 1507. Weir *v.* Morden, 125 U. S., 98-108; 43 O. G., 753. Hailes *v.* Albany Stove Co., 123 U. S., 582-589; 42 O. G., 95. Holland *v.* Shipley, 127 U. S., 396; 44 O. G., 231. Peters *v.* Active Co., 130 U. S., 626; 47 O. G., 1219. Pattee Co. *v.* Kingman Co., 129 U. S., 294-305; 46 O. G., 1107. Dreyfus *v.* Searle, 124 U. S., 60; 42 O. G., 491. Munson *v.* Mayor of N. Y., 124 U. S., 601-605; 42 O. G., 1061. Goebel *v.* Goldmann, 64 F. R., 787; 70 O. G., 1641. Consolidated Elec. Mfg. Co. *v.* Holtzer, 67 F. R., 907; 72 O. G., 415. Andrews *v.* Thum, 67 F. R., 911; 72 O. G., 899. Kilmer *v.* Friswold, 67 F. R., 117; 72 O. G., 1786. Thompson Mfg. Co. *v.* Walbridge, 67 F. R., 1021; 72 O. G., 1788. Kilmer Co. *v.* Griswold, 74 F. R., 561; 76 O. G., 963. Philadelphia Co. *v.* Weeks, 61 F. R., 405; 68 O. G., 417.

*Mechanical skill.*—Hollister *v.* Benedict, 113 U. S., 59-73. Morris *v.* McMillin, 112 U. S., 244; 29 O. G., 951. Pomace Holder Co. *v.* Ferguson, 119 U. S., 335-338; 37 O. G., 1479. Yale Lock Co. *v.* Greenleaf, 117 U. S., 554-559; 35 O. G., 386. Aron *v.* Manhattan Co., 132 U. S., 84; 49 O. G., 1365. Shenfield *v.* Nashawannuck Co., 137 U. S., 56; 53 O. G., 1092. Phillips *v.* City of Detroit, 111 U. S., 604. Royer *v.* Roth, 132 U. S., 201; 49 O. G., 1987. French *v.* Carter, 137 U. S., 239; 53 O. G., 1572. Giles *v.* Heysinger, 150 U. S., 627; 66 O. G., 171. Black Diamond Co. *v.* Emission Co., 156 U. S., 611; 70 O. G., 1797. Smith *v.* Macbeth, 67 F. R., 137; 73 O. G., 619. Union Paper Bag Mach. Co. *v.* Waterbury et al., 70 F. R., 240; 74 O. G., 269. Merritt *v.* Middleton, 61 F. R., 680; 68 O. G., 913. Westinghouse *v.* Edison Co., 63 F. R., 588; 69 O. G., 1774.

*Mechanical method and its relation to article produced—Aggregation.*—Two patents to one inventor for one invention. Mosler *v.* Mosler, 127 U. S., 354; 43 O. G., 1115.

*Mechanical processes criticised.*—Risdon Iron & Locomotive Works *v.* Medart, 158 U. S., 68; 71 O. G., 751. Glass Co. *v.* Henderson, 67 F. R., 930; 72 O. G., 285.

*Must involve invention as well as novelty and utility.*—Thompson *v.* Boisselier, 114 U. S., 1; 31 O. G., 377. Gardner *v.* Herz, 118 U. S., 180; 35 O. G., 999. Hill *v.* Wooster, 132 U. S., 693; 50 O. G., 560.

*New and useful result.*—Webster Loom Co. *v.* Higgins, 105 U. S., 580; 21 O. G., 2031.

*Operativeness and usefulness, evidence of.*—Dashiell *v.* Grosvenor, 162 U. S., 425; 75 O. G., 507.

*Originality of invention, employer and employee.*—Thompson *v.* Hall, 130 U. S., 117-122; 47 O. G., 656. Forgie *v.* Oil Well Co., 58 F. R., 871; 67 O. G., 1573.

*Particular arrangement.*—Pope Mfg. Co. *v.* Gormully, 144 U. S., 238; 59 O. G., 464. Topliff *v.* Topliff, 145 U. S., 156; 59 O. G., 1257. Dobson *v.* Cubley, 149 U. S., 117; 63 O. G., 1059. Corbin Lock Co. *v.* Eagle Lock Co., 150 U. S., 38; 65 O. G., 1066. Knapp *v.* Morss, 150 U. S., 221; 65 O. G., 1593. Howard *v.* Detroit Stove Works, 150 U. S., 164; 65 O. G., 1765. Magin *v.* Karle, 150 U. S., 387; 65 O. G., 2060.

*Public use or sale.*—Consolidated F. Jar. Co. *v.* Wright, 94 U. S., 92. Elizabeth *v.* Pavement Co., 97 U. S., 126. Parks *v.* Booth, 102 U. S., 96; 17 O. G., 1089. Egbert *v.* Lippman, 104 U. S., 333; 21 O. G., 75. Worley *v.* Loker Tobacco Co., 104 U. S., 340; 21 O. G., 559. Hall *v.* Macneale, 107 U. S., 90; 23 O. G., 937. Manning *v.* Glue Co., 108 U. S., 462; 23 O. G., 2413. Miller *v.* Foree, 116 U. S., 22; 33 O. G., 1497. Beedle *v.* Bennett, 122 U. S., 71; 39 O. G., 1326. Smith & Griggs Co. *v.* Sprague, 123 U. S., 249; 41 O. G., 1037. Andrews *v.* Hovey, 124 U. S., 694; 42 O. G., 1285. Andrews *v.* Hovey, 123 U. S., 267-276; 41 O. G., 1162. Brush *v.* Condit, 132 U. S., 39-50; 49 O. G., 1211. Barbed Wire Patent, 143 U. S., 275; 58 O. G., 1555 (in this country). Gandy *v.* Belt Co., 143 U. S., 587; 59 O. G., 1106. Root *v.* Third Ave. R. R. Co., 146 U. S., 210; 61 O. G., 1947. Kirk *v.* United States, 163 U. S., 49, 91. Gates Iron Works *v.* Frazier, 153 U. S., 332; 67 O. G., 1065. Smith & Davis Co. *v.* Mellon, 58 F. R., 705; 66 O. G., 173. Gamewell Co. *v.* Municipal Co., 61 F. R., 208; 68 O. G., 1391. National Harrow Co. *v.* Quick, 74 F. R., 236; 76 O. G., 1574.

*Prior knowledge or use.*—Fornicrook *v.* Root, 127 U. S., 176; 43 O. G., 984. Collins Co. *v.* Coes, 130 U. S., 56; 47 O. G., 523. Peters *v.* Active Mfg. Co., 129 U. S., 530; 47 O. G., 948.

*Prior publication.*—Eames *v.* Andrews, 122 U. S., 40; 39 O. G., 1319.

*Process defined.*—Mowry *v.* Whitney, 14 Wall., 620; 1 O. G., 492. Wood Paper Pat., 23 Wall., 566. Cochran *v.* Deener, 94 U. S., 780; 11 O. G., 687. Downtown *v.* Yeager Milling Co., 108 U. S., 466; 25 O. G., 697. Fermentation Co. *v.* Maus, 122 U. S., 413-432. Lawther *v.* Hamilton, 124 U. S., 1-11; 42 O. G., 487. International Tooth Crown Co. *v.* Gaylord, 140 U. S., 55; 55 O. G., 865. Royer *v.* Coupe, 146 U. S., 524; 62 O. G., 318. Wells Glass Co. *v.* Henderson, 67 F. R., 930; 72 O. G., 285. Schwarzwader *v.* N. Y. Filter Co., 66 F. R., 152; 72 O. G., 1043. Tannage Co. *v.* Zahn, 70 F. R., 1003. Wall *v.* Leck, 66 F. R., 552; 74 O. G., 377. Vt. Farm Mach. Co. *v.* Gibson, 56 F. R., 143; 64 O. G., 300. Heroult, 5 App. D. C., 90; 70 O. G., 784. Am. Fibre Co. *v.* Buckskin Co., 72 F. R., 508; 75 O. G., 833.

*Process and apparatus claims treated; priority and originality of invention; operative device.*—Telephone Cases, 126 U. S., 1-584; 43 O. G., 377.

*Result not patentable.*—Fuller *v.* Yentzer, 94 U. S., 288, 299; 11 O. G., 551, 597. Glue Co. *v.* Upton, 97 U. S., 3. Brush Elec. Co. *v.* Western Co., 76 F. R., 761; 77 O. G., 1273. Browning *v.* Colorado Co., 61 F. R., 845; 68 O. G., 1145. *Two patents to one inventor for one invention.*—Miller *v.* Eagle Mfg. Co., 151 U. S., 186; 66 O. G., 845. Underwood *v.* Gerber, 149 U. S., 224; 63 O. G., 1063. Russell *v.* Kern, 69 F. R., 94; 72 O. G., 590. Thomson-Houston Elec. Co. *v.* West. Elec. Co., 70 F. R., 69; 73 O. G., 1123. Westinghouse Co. *v.* N. Y. Co., 67 F. R., 962; 69 O. G., 945. Fassett *v.* Ewart Co., 62 F. R., 404; 69 O. G., 953. Elec. Accumulator Co. *v.* Brush Co., 52 F. R., 130; 61 O. G., 886. (Consult also citations under Sec. 4919, p. 87.)

The Secretary of the Interior and the Commissioner of Patents are authorized to grant any officer of the Government, except officers and employés of the Patent Office, a patent for any invention of the classes mentioned in section forty-eight hundred and eighty-six of the Revised Statutes when such invention is used or to be used in the public service, without the payment of any fee: *Provided*, That the applicant in his application shall state that the invention described therein, if patented, may be used by the Government, or any of its officers or employés in prosecution of work for the Government, or by any other person in the United States, without the payment to him of any royalty thereon, which stipulation shall be included in the patent.

TITLE LX, Rev. Stat., 1878, p. 945:

SEC. 4887. No person otherwise entitled thereto shall be debarred from receiving a patent for his invention or discovery, nor shall any patent be declared invalid by reason of its having been first patented or caused to be patented by the inventor or his legal representatives or assigns in a foreign country, unless the application for said foreign patent was filed more than twelve months, in cases within the provisions of section forty-eight hundred and eighty-six of the Revised Statutes, and four months in cases of designs, prior to the filing of the application in this country, in which case no patent shall be granted in this country.

An application for patent for an invention or discovery or for a design filed in this country by any person who has previously regularly filed an application for a patent for the same invention, discovery, or design in a foreign country which, by treaty, convention, or law, affords similar privileges to citizens of the United States shall have the same force and effect as the same application would have if filed in this country on the date on which the application for patent for the same

invention, discovery, or design was first filed in such foreign country, provided the application in this country is filed within twelve months in cases within the provisions of section forty-eight hundred and eighty-six of the Revised Statutes, and within four months in cases of designs, from the earliest date on which any such foreign application was filed. But no patent shall be granted on an application for patent for an invention or discovery or a design which had been patented or described in a printed publication in this or any foreign country more than two years before the date of the actual filing of the application in this country, or which had been in public use or on sale in this country for more than two years prior to such filing.

*Identity of the inventions considered.*—*Siemens v. Sellers*, 123 U. S., 276; 41 O. G., 1165. *Commercial Co. v. Fairbank Co.*, 135 U. S., 176; 51 O. G., 965. *Elec. Accu. Co. v. Brush Co.*, 52 F. R., 130; 61 O. G., 886.

*Effect of prior foreign patent.*—*Telephone Cases*, 126 U. S., 1-584; 43 O. G., 377.

*Term of foreign patent.*—*Bate Refrigerating Co. v. Hammond*, 129 U. S., 151; 46 O. G., 688. *Pohl v. Anchor Brewing Co.*, 134 U. S., 381-387; 51 O. G., 156.

*A. U. S. patent granted for an invention previously patented abroad, but which foreign patent has expired, is without validity.*—*Huber v. Nelson*, 148 U. S., 270; 63 O. G., 311.

*Term of foreign patent—Limitation on face of U. S. patent unnecessary—Certificate of correction.*—*Edison Elec. Co. v. U. S. Co.*, 52 F. R., 300; 61 O. G., 564.

*The meaning of "previously patented" considered.*—*Bate Refrig. Co. v. Sulzberger*, 157 U. S., 1; 70 O. G., 1633.

SEC. 4888. Before any inventor or discoverer shall receive a patent for his invention or discovery, he shall make application therefor, in writing, to the Commissioner of Patents, and shall file in the Patent Office a written description of the same, and of the manner and process of making, constructing, compounding, and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art or science to which it appertains, or with which it is most nearly connected, to make, construct, compound, and use the same; and in case of a machine, he shall explain the principle thereof, and the best mode in which he has contemplated applying that principle, so as to distinguish it from other inventions; and he shall particularly point out and distinctly claim the part, improvement, or combination which he claims as his invention or discovery. The specification and claim shall be signed by the inventor and attested by two witnesses.

*Application must be made by the inventor.*—*Kennedy v. Hazelton*, 128 U. S., 667; 46 O. G., 973.

*Claim limited by description.*—*Mitchell v. Tilghman*, 19 Wall., 287; 5 O. G., 299. *Hailes v. Van Womer*, 29 Wall., 353; 5 O. G., 89. *Fuller v. Yentzer*, 94 U. S., 288, 299; 11 O. G., 551, 597. *Merrill v. Yeomans*, 94 U. S., 568; 11 O. G., 970. *R. R. Co. v. Mellon*, 104 U. S., 112; 20 O. G., 1891. *Yale Lock Co. v. Greenleff*, 117 U. S., 554; 35 O. G., 386. *White v. Dunbar*, 119 U. S., 47; 37 O. G., 1002.

Snow *v.* Lake Shore Co., 121 U. S., 617; 39 O. G., 1081. Haines *v.* McLaughlin, 135 U. S., 584; 51 O. G., 1465. Howe Machine Co. *v.* National Co., 134 U. S., 388; 51 O. G., 475. McClain *v.* Ort Mayer, 141 U. S., 419; 57 O. G., 1129. Knapp *v.* Morss, 150 U. S., 221; 65 O. G., 1593. Am. Fibre Co. *v.* Port Huron Co., 72 F. R., 516; 75 O. G., 836. Gould Co. *v.* Trojan Co., 74 F. R., 794; 75 O. G., 2009. Groth *v.* International Co., 61 F. R., 284; 68 O. G., 413.

*Composition of matter; how identified in claim.*—Cochrane *v.* Badische, 111 U. S., 293; 27 O. G., 813.

*Claims defined and construed.*—Estey *v.* Burdett, 109 U. S., 633-640; 26 O. G., 637. Bussey *v.* Excelsior Co., 110 U. S., 181; 26 O. G., 733. Railway Co. *v.* Car Brake Co., 110 U. S., 229; 26 O. G., 915. Consolidated Valve Co. *v.* Kunkle, 119 U. S., 45; 37 O. G., 1003. Dryfoos *v.* Wiese, 124 U. S., 32; 42 O. G., 490. Bragg *v.* Fitch, 121 U. S., 478; 39 O. G., 829. Plummer *v.* Sargent, 120 U. S., 442. Joyce *v.* Chillicothe, 127 U. S., 557; 44 O. G., 107. Sargent *v.* Burgess, 129 U. S., 19; 46 O. G., 693. Crescent Brewing Co. *v.* Gottfried, 128 U. S., 158; 45 O. G., 944. Boyden Power Brake Co. *v.* Westinghouse Air Brake Co., 70 F. R., 816; 73 O. G., 1857. McCormick Harvesting Bach. Co. *v.* Aultman & Co., 73 O. G., 1999. National Cash Reg. Co. *v.* Am. Cash Reg. Co., 53 F. R., 367; 62 O. G., 449. Sayre *v.* Scott, 55 F. R., 971; 63 O. G., 1818. Judd & Co. *v.* Fowler, 61 F. R., 821; 68 O. G., 914. Le Favour *v.* Rice, 62 F. R., 393; 69 O. G., 371. Kilbourne *v.* Birmingham Co., 50 F. R., 697; 60 O. G., 577. Norton *v.* Jensen, 49 F. R., 859; 60 O. G., 1326. Illinois Co. *v.* Robbins et al., 52 F. R., 215; 61 O. G., 721.

*Claims to pioneer invention construed.*—Morley Co. *v.* Lancaster, 129 U. S., 263; 47 O. G., 267. Tuttle *v.* Clafin, 76 F. R., 227; 77 O. G., 973. Dederick *v.* Siegmund, 51 F. R., 233; 60 O. G., 1193.

*Claims construed by prior art.*—Washing Mach. Co. *v.* Tool Co., 20 Wall., 342. Zane *v.* Saffe, 110 U. S., 200; 26 O. G., 737. Thompson *v.* Boisselier, 114 U. S., 1; 31 O. G., 377. Grier *v.* Wilt, 120 U. S., 412; 38 O. G., 1365. Wollensack *v.* Reiber, 115 U. S., 87; 31 O. G., 1303. Deering *v.* Winona Works, 155 U. S., 286; 69 O. G., 1641. Schuyler Elec. Co. *v.* Elec. Eng. & Supply Co., 66 F. R., 313; 73 O. G., 1419. Fox *v.* Perkins, 52 F. R., 205; 62 O. G., 160. West. Elec. Co. *v.* Sperry Elec. Co., 58 F. R., 186; 65 O. G., 597. Blount Mfg. Co. *v.* Bardsley, 75 F. R., 674; 75 O. G., 2007.

*Definiteness of specification.*—Mowry *v.* Whitney, 14 Wall., 620; 1 O. G., 492. Sewall *v.* Jones, 91 U. S., 171; 9 O. G., 47. Eames *v.* Andrews, 122 U. S., 40; 39 O. G., 1319. Telephone Cases, 126 U. S., 1; 43 O. G., 377. Bénd *v.* Jeantet, 129 U. S., 683; 47 O. G., 402. Western Elec. Co. *v.* Ansonia Co., 114 U. S., 447; 31 O. G., 1305. Lawther *v.* Hamilton, 124 U. S., 1; 42 O. G., 487; Lalance & Grosjean Mfg. Co. *v.* Habermann Mfg. Co., 53 F. R., 375; 63 O. G., 1816. Dixon Woods Co. *v.* Pfeifer, 55 F. R., 390; 64 O. G., 156. Long *v.* Pope Mfg. Co., 75 F. R., 835; 77 O. G., 1428. Edison Elec. Co. *v.* U. S. Co., 52 F. R., 300; 61 O. G., 564.

*Deceptive patent void.*—Carlton *v.* Bokee, 17 Wall., 463; 2 O. G., 520.

*Effect of words "substantially as described" considered.*—Brown *v.* Davis, 116 U. S., 237; 34 O. G., 435. Columbus Watch Co. *v.* Robbins, 64 F. R., 384; 70 O. G., 132. Westinghouse *v.* Edison Co., 63 F. R., 588; 69 O. G., 1774. Campbell *v.* Richardson, 76 F. R., 576; 78 O. G., 1103.

*Effect of words "for the purpose set forth" considered.*—Day *v.* Fair Haven R. R., 132 U. S., 98; 49 O. G., 1364.

*Elements not imported into a claim by construction to make out a case of novelty or infringement.*—Wollensack *v.* Sargent, 151 U. S., 221 66 O. G., 1007. McCarty *v.* Lehigh Co., 160 U. S., 110; 73 O. G., 1707.

*Element positively included in the claim is made essential.*—Fay *v.* Cordesman, 109 U. S., 408; 25 O. G., 1277. Yale Lock Co. *v.* Sargent, 117 U. S., 373; 35 O. G., 385. Watson *v.* Cincinnati R. R. Co., 132 U. S., 161; 49 O. G., 1843. Wright *v.* Yuengling, 155 U. S., 47; 69 O. G., 639. Coupe *v.* Royer, 155 U. S., 565; 70 O. G., 779.

*Indefinite claim, patent invalid.*—Electric Light Co. *v.* McKeesport Co., 159 U. S., 465; 73 O. G., 1289.

*Interpretation of specification and drawing.*—Caverly *v.* Deere, 66 F. R., 305; 73 O. G., 1711.

*Limitations in patent resulting from answer to requirement of Office.*—Sargent *v.* Hall Co., 114 U. S., 68; 31 O. G., 661. Sutter *v.* Robinson, 119 U. S., 530; 38 O. G., 230. Shepard *v.* Carrigan, 116 U. S., 593; 34 O. G., 1157. McCormick *v.* Graham, 129 U. S., 1; 46 O. G., 443. Phoenix Caster Co. *v.* Spiegel, 133 U. S., 360; 50 O. G., 1591. Roemer *v.* Peditie, 133 U. S., 313; 49 O. G., 2151. Morgan Envelope Co. *v.* Albany Co., 152 U. S., 425; 67 O. G., 271. Lehigh Valley Co. *v.* Kearney, 158 U. S., 461; 72 O. G., 139. American Co. *v.* Pennock Co., 17 S. C. Reporter, 1; 77 O. G., 633. Reece Co. *v.* Globe Co., 61 F. R., 958; 67 O. G., 1720.

*Must be claimed as well as shown.*—Roemer *v.* Bernheim, 132 U. S., 103; 49 O. G., 1535.

*New matter introduced by amendment condemned.*—Eagleton Mfg. Co. *v.* Mfg. Co., 111 U. S., 490; 27 O. G., 1237. Chicago & N. W. Railway Co. *v.* Sayles, 97 U. S., 554; 15 O. G., 243. Michigan Central R. R. Co. *v.* Consolidated Car Heating Co., 67 F. R., 121; 71 O. G., 1028. Long *v.* Pope Mfg. Co., 75 F. R., 835; 77 O. G., 1428.

*Useful application test of a patent's validity.*—Klein *v.* Russell, 19 Wall., 433.

SEC. 4889. When the nature of the case admits of drawings,

the applicant shall furnish one copy signed by the inventor or his attorney in fact, and attested by two witnesses, which shall be filed in the Patent Office; and a copy of the drawing, to be furnished by the Patent Office, shall be attached to the patent as a part of the specification.

SEC. 4890. When the invention or discovery is of a composition of matter, the applicant, if required by the Commissioner, shall furnish specimens of ingredients and of the composition, sufficient in quantity for the purpose of experiment.

SEC. 4891. In all cases which admit of representation by model, the applicant, if required, by the Commissioner, shall furnish a model of convenient size to exhibit advantageously the several parts of his invention or discovery.

SEC. 4892. The applicant shall make oath that he does verily believe himself to be the original and first inventor or discoverer of the art, machine, manufacture, composition or improvement for which he solicits a patent; that he does not know and does not believe that the same was ever before known or used; and shall state of what country he is a citizen. Such oath may be made before any person within the United States authorized by law to administer oaths, or, when the applicant resides in a foreign country, before any minister, chargé d'affaires, consul, or commercial agent holding commission under the Government of the United States, or before any notary public, judge, or magistrate having an official seal and authorized to administer oaths in the foreign country in which the applicant may be, whose authority shall be proved by certificate of a diplomatic or consular officer of the United States.

*Not necessary to recite that oath has been taken.*—*Seymour v. Osborne*, 11 Wall., 516.

*Oath must be made by the inventor.*—*Kennedy v. Hazelton*, 128 U. S., 667-673; 46 O. G., 973.

SEC. 4893. On the filing of any such application and the payment of the fees required by law, the Commissioner of Patents shall cause an examination to be made of the alleged new invention or discovery; and if on such examination it shall appear that the claimant is justly entitled to a patent under the law, and that the same is sufficiently useful and important, the Commissioner shall issue a patent therefor.

*Mandamus to compel Commissioner to sign patent, if his judgment and discretion are to issue it—Supervision of Secretary of Interior not applicable to this matter.*—*Butterworth v. Hoe*, 112 U. S., 50-60; 29 O. G., 615.

SEC. 4894. All applications for patents shall be completed and prepared for examination within one year after the filing of the application, and in default thereof, or upon failure of the applicant to prosecute the same within one year after any action therein, of which notice shall have been given to the applicant, they shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner of Patents that such delay was unavoidable.

*Statutes in regard to delay apply to bill in equity under Sec. 4915.*—*Gandy v. Marble*, 122 U. S., 432-440; 39 O. G., 1423.  
*Decision of Office final.*—*West. Elec. Co. v. Sperry Electric Co.*, 58 F. R., 186; 65 O. G., 597.

SEC. 4895. Patents may be granted and issued or re-issued to the assignee of the inventor or discoverer; but the assignment must first be entered of record in the Patent Office. And in all cases of an application by an assignee for the issue of a patent, the application shall be made and the specification sworn to by the inventor or discoverer; and in all cases of an application for a re-issue of any patent, the application must be made and the corrected specification signed by the inventor or discoverer, if he is living, unless the patent was issued and the assignment made before the eighth day of July, eighteen hundred and seventy.

*Assignee of patent before issue.*—*Hendrie v. Sayles*, 98 U. S., 546.

SEC. 4896. When any person, having made any new invention or discovery for which a patent might have been granted, dies before a patent is granted, the right of applying for and obtaining the patent shall devolve on his executor or administrator, in trust for the heirs at law of the deceased, in case he shall have died intestate; or if he shall have left a will disposing of the same, then in trust for his devisees, in as full manner and on the same terms and conditions as the same might have been claimed or enjoyed by him in his lifetime; and when the application is made by such legal representatives, the oath or affirmation required to be made shall be so varied in form that it can be made by them. The executor or administrator duly authorized under the law of any foreign country to administer upon the estate of the deceased inventor shall, in case the said inventor was not domiciled in the United States at the time of his death, have the right to apply for and obtain the patent. The authority of such foreign executor or

administrator shall be proved by certificate of a diplomatic or consular officer of the United States.

*Authority of attorney after death of inventor.*—*Eagleton Mfg. Co. v. Mfg. Co.*, 111 U. S., 490; 27 O. G., 1237.

*Patent to deceased inventor goes to his heirs.*—*De la Vergne Ref'g Co. v. Featherstone*, 147 U. S., 209; 62 O. G., 741.

SEC. 4897. Any person who has an interest in an invention or discovery, whether as inventor, discoverer, or assignee, for which a patent was ordered to issue upon the payment of the final fee, but who fails to make payment thereof within six months from the time at which it was passed and allowed, and notice thereof was sent to the applicant or his agent, shall have a right to make an application for a patent for such invention or discovery the same as in the case of an original application. But such second application must be made within two years after the allowance of the original application. But no person shall be held responsible in damages for the manufacture or use of any article or thing for which a patent was ordered to issue under such renewed application prior to the issue of the patent. And upon the hearing of renewed applications preferred under this section, abandonment shall be considered as a question of fact.

SEC. 4898. Every patent or any interest therein shall be assignable in law by an instrument in writing, and the patentee or his assigns or legal representatives may in like manner grant and convey an exclusive right under his patent to the whole or any specified part of the United States. An assignment, grant, or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Patent Office within three months from the date thereof.

If any such assignment, grant, or conveyance of any patent shall be acknowledged before any notary public of the several States or Territories or the District of Columbia, or any commissioner of the United States circuit court, or before any secretary of legation or consular officer authorized to administer oaths or perform notarial acts under section seventeen hundred and fifty of the Revised Statutes, the certificate of such acknowledgment, under the hand and official seal of such notary or other officer, shall be *prima facie* evidence of the execution of such assignment, grant, or conveyance.

*Assignment and license defined.*—Nicholson Pavement Co. v. Jenkins, 14 Wall., 452; 1 O. G., 466. Adams v. Burks, 17 Wall., 453; 33 O. G., 113. Littlefield v. Perry, 21 Wall., 205; 7 O. G., 964. Burdell v. Denig, 92 U. S., 716. Hayward v. Andrews, 106 U. S., 672; 23 O. G., 533. Oliver Co. v. Chem. Works, 109 U. S., 75; 25 O. G., 784. Laver v. Dennitt, 109 U. S., 90; 25 O. G., 882. Solomons v. U. S., 137 U. S., 342; 54 O. G., 265. Waterman v. Mackenzie, 138 U. S., 252; 54 O. G., 1562. St. Paul Plow Works v. Starling, 140 U. S., 184; 55 O. G., 1821. Dalzell v. Watch Co., 149 U. S., 315; 63 O. G., 1381. Lane & Bodley Co. v. Locke, 150 U. S., 193; 65 O. G., 1406. Heaton Co. v. Eureka Co., 78 O. G., 171. Anderson v. Eiler, 50 F. R., 775; 60 O. G., 740.

*Construction of contract.*—National Co. v. Willcox & Gibbs Co., 74 F. R., 557; 76 O. G., 961.

*Verbal license is void as against subsequent assignee without notice.*—Gates Iron Works v. Frazier, 153 U. S., 332; 67 O. G., 1065.

*An agreement not to dispute the validity of a patent not directly involved in the agreement is against public policy.*—Pope Mfg. Co. v. Gormully, 144 U. S., 224 et seq.; 59 O. G., 464, et seq.

*Authority of attorney to execute assignment.*—Chauche v. Pare, 75 F. R., 283; 77 O. G., 1123.

*Assignment for extension.*—P. W. & B. R. R. Co. v. Trimble, 10 Wall., 367. Nicholson Pavement Co. v. Jenkins, 14 Wall., 452; 1 O. G., 466.

*Conditional assignment.*—Aitkens & Co. v. Parke, 61 F. R., 953; 68 O. G., 1519. Future invention, contract to assign.—Regan Vapor Engine Co. v. Pacific Co., 49 F. R., 68; 58 O. G., 1695.

*Implied license, employer and employee.*—Hapgood v. Hewitt, 119 U. S., 226-234; 37 O. G., 1247.

*Specific performance of contract to assign invalid patent.*—Kennedy v. Hazelton, 128 U. S., 667-673; 46 O. G., 973.

*Assignment construed.*—Rude v. Westcott, 130 U. S., 152.

*Effect of subsequent contract on absolute assignment.*—Boesch v. Graff, 133 U. S., 697; 51 O. G., 477.

*Licensee's liability.*—U. S. v. Burns, 12 Wall., 246. Paper Bag Mach. Cases, 105 U. S., 766; 21 O. G., 1275.

*License, escrow.*—Mellon v. R. R. Co., 21 O. G., 1616.

*Mortgage, notice.*—Waterman v. Shipman, 55 F. R., 982; 64 O. G., 713.

*One inventor as trustee for another.*—Ambler v. Whipple, 20 Wall., 546.

*Patented machine is purchaser's property.*—Mitchell v. Hawley, 16 Wall., 544. Paper Bag Mach. Cases, 105 U. S., 766; 21 O. G., 1275.

*Purchase of article may give license to use process.*—Vt. Farm Mach. Co. v. Gibson, 56 F. R., 143; 64 O. G., 300.

*Right to purchase patented article.*—Hobbie v. Jennison, 149 U. S., 355; 63 O. G., 1204.

*Recording assignments, effect of; what instruments recorded.*—Standard Co. v. Crane Co., 77 O. G., 811.

*Seal.*—Gottfried v. Miller, 104 U. S., 521; 21 O. G., 711.

*Separate claims of a patent are not assignable.*—Pope Mfg. Co. v. Gormully, 144 U. S., 248; 59 O. G., 471.

*Successors of assignees.*—Hammond v. Mason Organ Co., 92 U. S., 724.

SEC. 4899. Every person who purchases of the inventor or discoverer, or, with his knowledge and consent, constructs any newly invented or discovered machine, or other patentable article, prior to the application by the inventor or discoverer for a patent, or who sells or uses one so constructed, shall have the right to use, and vend to others to be used, the specific thing so made or purchased, without liability therefor.

*Previously purchased machine can be no infringement during extension.*—Paper Bag Mach. Cases, 105 U. S., 766; 21 O. G., 1275.

*What persons have the right to use.*—Wade v. Metcalf, 129 U. S., 202. Dable Shovel Co. v. Flint, 137 U. S., 41; 53 O. G., 1093.

SEC. 4900. It shall be the duty of all patentees, and their assigns and legal representatives, and of all persons making or vending any patented article for or under them, to give sufficient notice to the public that the same is patented; either by fixing thereon the word "patented," together with the day and year the patent was granted; or when, from the character of

the article, this can not be done, by fixing to it, or to the package wherein one or more of them is inclosed, a label containing the like notice; and in any suit for infringement, by the party failing so to mark, no damages shall be recovered by the plaintiff, except on proof that the defendant was duly notified of the infringement, and continued, after such notice, to make, use, or vend the article so patented.

*Sufficiency of notice.*—*Session v. Romadka*, 145 U. S., 29; 59 O. G., 939. *Dunlap v. Schofield*, 152 U. S., 244; 67 O. G., 139. *Beach v. Inman Co.*, 71 F. R., 420; 74 O. G., 379.

SEC. 4901. Every person who, in any manner, marks upon anything made, used, or sold by him for which he has not obtained a patent, the name or any imitation of the name of any person who has obtained a patent therefor, without the consent of such patentee, or his assigns or legal representatives; or

Who, in any manner, marks upon or affixes to any such patented article the word "patent" or "patentee," or the words "letters patent," or any word of like import, with intent to imitate or counterfeit the mark or device of the patentee, without having the license or consent of such patentee or his assigns or legal representatives; or

Who, in any manner, marks upon or affixes to any unpatented article the word "patent" or any word importing that the same is patented for the purpose of deceiving the public, shall be liable, for every such offense, to a penalty of not less than one hundred dollars, with costs; one-half of said penalty to the person who shall sue for the same, and the other to the use of the United States, to be recovered by suit in any district court of the United States within whose jurisdiction such offense may have been committed.

SEC. 4902. Any person who makes any new invention or discovery and desires further time to mature the same may, on payment of the fees required by law, file in the Patent Office a caveat setting forth the design thereof and of its distinguishing characteristics and praying protection of his right until he shall have matured his invention. Such caveat shall be filed in the confidential archives of the office and preserved in secrecy, and shall be operative for the term of one year from the filing thereof; and if application is made within the year by any other person for a patent with which such caveat

would in any manner interfere the Commissioner shall deposit the description, specification, drawings, and model of such application in like manner in the confidential archives of the office and give notice thereof by mail to the person by whom the caveat was filed. If such person desires to avail himself of his caveat he shall file his description, specifications, drawings, and model within three months from the time of placing the notice in the post-office in Washington, with the usual time required for transmitting it to the caveator added thereto, which time shall be indorsed on the notice.

SEC. 4903. Whenever, on examination, any claim for a patent is rejected, the Commissioner shall notify the applicant thereof, giving him briefly the reasons for such rejection, together with such information and references as may be useful in judging of the propriety of renewing his application or of altering his specification; and if, after receiving such notice, the applicant persists in his claim for a patent, with or without altering his specifications, the Commissioner shall order a re-examination of the case.

*Amendment may be made by attorney after inventor's death.*—*De la Vergne Ref'g Co. v. Featherstone*, 147 U. S., 209; 62 O. G., 741.

SEC. 4904. Whenever an application is made for a patent which, in the opinion of the Commissioner, would interfere with any pending application, or with any unexpired patent, he shall give notice thereof to the applicants, or applicant and patentee, as the case may be, and shall direct the primary examiner to proceed to determine the question of priority of invention. And the Commissioner may issue a patent to the party who is adjudged the prior inventor, unless the adverse party appeals from the decision of the primary examiner, or of the board of examiners-in-chief, as the case may be, within such time, not less than twenty days, as the Commissioner shall prescribe.

*Diligence discussed.*—*Christie v. Seybold*, 55 F. R., 69; 64 O. G., 1650. *Yates v. Hudson*, 74 O. G., 1732.

*Patentee and applicant.*—*Burr v. Ford*, 5 Tucker, 26; 70 O. G., 275. *Porter v. Louden*, 73 O. G., 1551.

*Conception and reduction to practice.*—*Colhoun v. Hodgson*, 5 App. D. C., 21; 70 O. G., 276. *Soley v. Hebbard*, 5 Tucker, 99; 70 O. G., 921.

*Constructive reduction to practice.*—*Porter v. Louden*, 73 O. G., 1551. *Croskey v. Atterbury*, 76 O. G., 163.

*Inoperative invention, priority.*—*Glidden v. Noble*, 5 App. D. C., 480; 71 O. G., 141. *Hisey v. Peters*, 6 App. D. C., 68; 71 O. G., 892. *Northal v. Bernardino*, 74 O. G., 655. *Carty v. Kellogg*, 74 O. G., 657; *Drawbaugh v. Seymour*, 77 O. G., 1313.

*Abandonment.*—*La Flare v. Chase*, 74 O. G., 1735.

*Priority.*—*Shellabarger v. Sommer*, 74 O. G., 1897.

*Foreign patent—Preliminary statement amended.*—Parker *v.* Appert, 75 O. G., 1201.  
*Partnership.*—Milton *v.* Kingsley, 75 O. G., 2193.  
*Presumption as to inventorship.*—Hill *v.* Parmelee, 78 O. G., 170.

SEC. 4905. The Commissioner of Patents may establish rules for taking affidavits and depositions required in cases pending in the Patent Office, and such affidavits and depositions may be taken before any officer authorized by law to take depositions to be used in the courts of the United States or of the State where the officer resides.

SEC. 4906. The clerk of any court of the United States, for any district or Territory wherein testimony is to be taken for use in any contested case pending in the Patent Office, shall, upon the application of any party thereto, or of his agent or attorney, issue a subpoena for any witness residing or being within such district or Territory, commanding him to appear and testify before any officer in such district or Territory authorized to take depositions and affidavits, at any time and place in the subpoena stated. But no witness shall be required to attend at any place more than forty miles from the place where the subpoena is served upon him.

SEC. 4907. Every witness duly subpoenaed and in attendance shall be allowed the same fees as are allowed to witnesses attending the courts of the United States.

SEC. 4908. Whenever any witness, after being duly served with such subpoena, neglects or refuses to appear, or after appearing refuses to testify, the judge of the court whose clerk issued the subpoena may, on proof of such neglect or refusal, enforce obedience to the process, or punish the disobedience, as in other like cases. But no witness shall be deemed guilty of contempt for disobeying such subpoena, unless his fees and traveling expenses in going to, returning from, and one day's attendance at the place of examination, are paid or tendered him at the time of the service of the subpoena; nor for refusing to disclose any secret invention or discovery made or owned by himself.

SEC. 4909. Every applicant for a patent or for the reissue of a patent, any of the claims of which have been twice rejected, and every party to an interference, may appeal from the decision of the primary examiner, or of the examiner in

charge of interferences in such case, to the board of examiners-in-chief; having once paid the fee for such appeal.

SEC. 4910. If such party is dissatisfied with the decision of the examiners-in-chief, he may, on payment of the fee prescribed, appeal to the Commissioner in person.

SEC. 4911. If such party, except a party to an interference, is dissatisfied with the decision of the Commissioner, he may appeal to the Supreme Court of the District of Columbia, sitting in banc. [See sec. 9, act of February 9, 1893.]

*Appeal under this section discussed.*—Butterworth *v.* Hoe, 112 U. S., 50—60; 29 O. G., 615.

SEC. 4912. When an appeal is taken to the Supreme Court of the District of Columbia, the appellant shall give notice thereof to the Commissioner, and file in the Patent Office within such time as the Commissioner shall appoint, his reasons of appeal, specifically set forth in writing.

SEC. 4913. The court shall, before hearing such appeal, give notice to the Commissioner of the time and place of the hearing, and on receiving such notice the Commissioner shall give notice of such time and place in such manner as the court may prescribe, to all parties who appear to be interested therein. The party appealing shall lay before the court certified copies of all the original papers and evidence in the case, and the Commissioner shall furnish the court with the grounds of his decision, fully set forth in writing, touching all the points involved by the reasons of appeal. And at the request of any party interested, or of the court, the Commissioner and the examiners may be examined under oath, in explanation of the principles of the thing for which a patent is demanded.

SEC. 4914. The court, on petition, shall hear and determine such appeal, and revise the decision appealed from in a summary way, on the evidence produced before the Commissioner, at such early and convenient time as the court may appoint; and the revision shall be confined to the points set forth in the reasons of appeal. After hearing the case the court shall return to the Commissioner a certificate of its proceedings and decision, which shall be entered of record in the Patent Office, and shall govern the further proceedings in the case. But no opinion or decision of the court in any such case shall preclude any person interested from the right to contest the validity of

such patent in any court wherein the same may be called in question.

*Review confined to points raised.*—*Forg.*, 2 App. D. C., 58; 66 O. G., 515.

SEC. 4915. Whenever a patent on application is refused, either by the Commissioner of Patents or by the Supreme Court of the District of Columbia upon appeal from the Commissioner, the applicant may have remedy by bill in equity; and the court having cognizance thereof, on notice to adverse parties and other due proceedings had, may adjudge that such applicant is entitled, according to law, to receive a patent for his invention, as specified in his claim, or for any part thereof, as the facts in the case may appear. And such adjudication, if it be in favor of the right of the applicant, shall authorize the Commissioner to issue such patent on the applicant filing in the Patent Office a copy of the adjudication, and otherwise complying with the requirements of law. In all cases, where there is no opposing party, a copy of the bill shall be served on the Commissioner; and all the expenses of the proceeding shall be paid by the applicant, whether the final decision is in his favor or not. [See § 629, ¶ 9.]

*In what district the bill should be brought considered.*—*Butterworth v. Hill*, 114 U. S., 128—133; 31 O. G., 1043.

*On what questions bill in equity is appropriate.*—*Butterworth v. Hoe*, 112 U. S., 50—60; 29 O. G., 615.

*Bill in equity is governed by the rules of delay specified in Sec. 4894.*—*Gandy v. Marble*, 122 U. S., 432-440; 39 O. G., 1423.

*Invention must be patentable to get favorable decision.*—*Hill v. Wooster*, 132 U. S., 698; 50 O. G., 560.

*May raise new questions.*—*Christie v. Seybold*, 55 F. R., 69; 64 O. G., 1650.

*Canceled claims, burden of proof of invention.*—*Durham*, 6 App. D. C., 78; 71 O. G., 601.

R. S. U. S., Sup., Vol. 2, c. 74, Feb. 9, 1893. *Be it enacted, etc.*, That there shall be, and there is hereby, established in the District of Columbia a court, to be known as the court of appeals of the District of Columbia.

SEC. 6. That the said court of appeals shall establish a term of the court during each and every month in each year excepting the months of July and August.

SEC. 8. That any final judgment or decree of the said court of appeals may be re-examined and affirmed, reversed, or modified by the Supreme Court of the United States, upon writ of error or appeal, in all causes in which the matter in dispute, exclusive of costs, shall exceed the sum of five thousand dollars, in the same manner and under the same regulations as heretofore provided for in cases of writs of error on judgment

or appeals from decrees rendered in the supreme court of the District of Columbia;

And also in cases, without regard to the sum or value of the matter in dispute, wherein is involved the validity of any patent or copyright, or in which is drawn in question the validity of a treaty or statute of or an authority exercised under the United States.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in any case heretofore made final in the court of appeals of the District of Columbia it shall be competent for the Supreme Court to require, by certiorari or otherwise, any such case to be certified to the Supreme Court for its review and determination, with the same power and authority in the case as if it had been carried by appeal or writ of error to the Supreme Court.*

SEC. 9. That the determination of appeals from the decision of the Commissioner of Patents, now vested in the general term of the supreme court of the District of Columbia, in pursuance of the provisions of section seven hundred and eighty of the Revised Statutes of the United States, relating to the District of Columbia, shall hereafter be and the same is hereby vested in the court of appeals created by this act;

And in addition any party aggrieved by a decision of the Commissioner of Patents in any interference case may appeal therefrom to said court of appeals.

*Section 9 does not permit appeals in trade-mark interferences.—Einstein v. Sawhill, 2 App. D. C., 10; 65 O. G. 1918.*

*Right of appeal in ex parte and priority cases distinct.—Hisey v. Peters, 6 App. D. C., 68; 71 O. G., 892.*

*United States Supreme Court will not take jurisdiction.—Durham, 74 O. G., 1731.*

*Jurisdiction.—Milton v. Kingsley, 75 O. G., 2193.*

*Compliance with requirements.—Drawbaugh, 77 O. G., 313.*

*Rules of court must be followed.—Bryant, 77 O. G., 1599. Hien v. Pungs, 77 O. G., 1600. Pelton v. Evered, 77 O. G., 1600. Ross v. Loewer, 77 O. G., 2141.*

*Motion for rehearing will not stay time for appeal.—Ross v. Loewer, 77 O. G., 2141.*

*Motion for rehearing condemned.—Hien v. Pungs, 78 O. G., 484.*

*Costs.—Wells v. Reynolds, 5 App. D. C., 20; 69 O. G., 1507. Roseburgh v. Holman, 78 O. G., 1258.*

TITLE LX, Rev. Stat., 1878, p. 950:

SEC. 4916. Whenever any patent is inoperative or invalid, by reason of a defective or insufficient specification, or by reason of the patentee claiming as his own invention or discovery more than he had a right to claim as new, if the error has

arisen by inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, the Commissioner shall, on the surrender of such patent and the payment of the duty required by law, cause a new patent for the same invention, and in accordance with the corrected specification, to be issued to the patentee, or, in case of his death or of an assignment of the whole or any undivided part of the original patent, then to his executors, administrators, or assigns, for the unexpired part of the term of the original patent. Such surrender shall take effect upon the issue of the amended patent. The Commissioner may, in his discretion, cause several patents to be issued for distinct and separate parts of the thing patented, upon demand of the applicant, and upon payment of the required fee for a re-issue for each of such re-issued letters patent. The specifications and claim in every such case shall be subject to revision and restriction in the same manner as original applications are. Every patent so re-issued, together with the corrected specifications, shall have the same effect and operation in law, on the trial of all actions for causes thereafter arising, as if the same had been originally filed in such corrected form; but no new matter shall be introduced into the specification, nor in case of a machine patent shall the model or drawings be amended, except each by the other; but when there is neither model nor drawing, amendments may be made upon proof satisfactory to the Commissioner that such new matter or amendment was a part of the original invention, and was omitted from the specification by inadvertence, accident, or mistake, as aforesaid.

*Reissue must be for original invention.*—*Seymour v. Osborne*, 11 Wall., 516. *Littlefield v. Perry*, 21 Wall., 205; 7 O. G., 964. *Gill v. Wells*, 22 Wall., 1; 6 O. G., 881. *Union Pap. Col. Co. v. Van Dusen*, 23 Wall., 530; 7 O. G., 919. *Russell v. Dodge*, 93 U. S., 460; 11 O. G., 151. *Marsh v. Seymour*, 97 U. S., 348; 13 O. G., 723. *Powder Co. v. Powder Works*, 98 U. S., 126; 15 O. G., 289. *Ball v. Langles*, 102 U. S., 128; 18 O. G., 1405. *Garneau v. Dozier*, 102 U. S., 230; 19 O. G., 61. *James v. Campbell*, 104 U. S., 356; 21 O. G., 337. *Heald v. Rice*, 104 U. S., 737; 21 O. G., 1443. *Johnston v. R. R. Co.*, 105 U. S., 539; 22 O. G., 329. *Wing v. Anthony*, 106 U. S., 142. *Gage v. Herring*, 107 U. S., 640; 23 O. G., 2119. *McMurray v. Mallory*, 111 U. S., 97-109; 27 O. G., 915. *Cochrane v. Badische*, 111 U. S., 203; 27 O. G., 818. *Eachus v. Broomall*, 115 U. S., 429; 33 O. G., 1265. *Worden v. Searles*, 121 U. S., 14; 39 O. G., 359. *Pattee Plow Co. v. Kingman Co.*, 129 U. S., 294; 46 O. G., 1107. *Flower v. City of Detroit*, 127 U. S., 563; 43 O. G., 1348. *Farmers Co. v. Challenge Co.*, 128 U. S., 506; 45 O. G., 1570. *Dunham v. Dennison*, 154 U. S., 103; 67 O. G., 1571. *Olin v. Timkin*, 155 U. S., 141; 69 O. G., 1361. *Lehigh Valley Co. v. Kearney*, 158 U. S., 461; 72 O. G., 139. *Pat. Clothing Co. v. Glover*, 141 U. S., 560; 57 O. G., 1287. *Freeman v. Asmus*, 145 U. S., 226; 59 O. G., 1432. *Huber v. Nelson*, 148 U. S., 270; 63 O. G., 311. *Leggett v. Oil Co.*, 149 U. S., 287; 63 O. G., 1201. *Corbin Lock Co. v. Eagle Lock Co.*, 150 U. S., 38; 65 O. G., 1066. *American Co. v. Johnston Co.*, 52 F. R., 229; 61 O. G., 1793.

*Can not proceed on original patent if reissue is void.*—*Eby v. King*, 158 U. S., 366; 71 O. G., 1454.

*Defective specification, inoperative patent; mistake laches, new matter reinsertion of claims.*—*Yale Lock Co. v. Berkshire Bank*, 135 U. S., 342; 51 O. G., 1291.

*Disclaimer to new matter in reissue considered.*—*Hurlbut v. Schillinger*, 130 U. S., 456; 47 O. G., 1067.

*Enlarged claim must be sought within two years.*—*Topliff v. Topliff*, 145 U. S., 156; 59 O. G., 1257. *Wollensak v. Reiher*, 115 U. S., 96.

*Intervening rights.*—*Lumber Co. v. Rodgers*, 112 U. S., 659; 30 O. G., 449. *Clements v. Excavating Co.*, 109 U. S., 641-650; 26 O. G., 353. *Turner & Co. v. Stamping Co.*, 111 U. S., 319; 27 O. G., 1131. *White v. Dunbar*, 110 U. S., 47; 37 O. G., 1002. *Cornell v. Weidner*, 127 U. S., 261; 43 O. G., 985. *Brown v. Davis*, 116 U. S., 237; 34 O. G., 435. *Mahn v. Harwood*, 112 U. S., 354; 30 O. G., 657. *Ives v. Sargent*, 119 U. S., 652; 38 O. G., 781. *Newton v. Furst, Etc., Co.*, 119 U. S., 373; 38 O. G., 104.

*Inadvertence or mistake.*—*Coon v. Wilson*, 113 U. S., 268; 30 O. G., 889. *Yale Lock Co. v. James*, 125 U. S., 447; 43 O. G., 881.

*Insufficient specification, accident or mistake, enlargement of claims.*—*Eames v. Andrews*, 122 U. S., 40; 39 O. G., 1319. *Matthews v. Iron Clad Co.*, 124 U. S., 347; 42 O. G., 827.

*Matter purposely erased in original.*—*Leggett v. Avery*, 101 U. S., 256; 17 O. G., 445. *Goodyear Co. v. Davis*, 102 U. S., 222; 19 O. G., 543. *Cartridge Co. v. Cartridge Co.*, 112 U. S., 624; 30 O. G., 771. *Beecher Co. v. Atwater Co.*, 114 U. S., 523; 31 O. G., 1306. *Crawford v. Heyisinger*, 123 U. S., 589; 42 O. G., 197. *Dobson v. Lees*, 137 U. S., 258; 53 O. G., 1740.

*Question of fact settled by Commissioner.*—*Seymour v. Osborne*, 11 Wall., 516. *Corn planter Patent*, 23 Wall., 181.

*Reissue for abandoned invention.*—*Mfg. Co. v. Corbin*, 103 U. S., 786; 20 O. G., 297.

*"The same invention" defined.*—*Parker & Whipple Co. v. Yale Co.*, 123 U. S., 87-104; 41 O. G., 811.

*Unreasonable delay.*—*Miller v. Brass Co.*, 104 U. S., 350; 21 O. G., 201. *Matthews v. Mach. Co.*, 105 U. S., 54; 21 O. G., 1349. *Bantz v. Frantz*, 105 U. S., 160; 21 O. G., 2037. *Johnson v. R. R. Co.*, 105 U. S., 539; 22 O. G., 329. *Thomson v. Wooster*, 114 U. S., 104-120; 31 O. G., 913. *Gardner v. Herz*, 118 U. S., 180; 35 O. G., 999. *Hartshorn v. Saginaw Co.*, 119 U. S., 664; 38 O. G., 540. *Gas Light Co. v. Boston Elec. Co.*, 139 U. S., 481; 55 O. G., 429. *Leggett v. Oil Co.*, 149 U. S., 287; 63 O. G., 1201. *Wollensak v. Sargent*, 151 U. S., 221; 66 O. G., 1007.

SEC. 4917. Whenever, through inadvertence, accident, or mistake, and without any fraudulent or deceptive intention, a patentee has claimed more than that of which he was the original or first inventor or discoverer, his patent shall be valid for all that part which is truly and justly his own, provided the same is a material or substantial part of the thing patented; and any such patentee, his heirs or assigns, whether of the whole or any sectional interest therein, may, on payment of the fee required by law, make disclaimer of such parts of the thing patented as he shall not choose to claim or to hold by virtue of the patent or assignment, stating therein the extent of his interest in such patent. Such disclaimer shall be in writing, attested by one or more witnesses, and recorded in the Patent Office; and it shall thereafter be considered as part of the original specification to the extent of the interest possessed by the claimant and by those claiming under him after the record thereof. But no such disclaimer shall affect any action pending at the time of its being filed, except so far as may relate to the question of unreasonable neglect or delay in filing it.

[See secs. 973, 4922.]

*Costs, effect of disclaimer on.*—*Sessions v. Romadka*, 145 U. S., 29; 59 O. G., 930.

*Disclaimer of reissue claim.*—*Gage v. Herring*, 107 U. S., 640; 23 O. G., 2119. *McMurray v. Mallory*, 111 U. S., 97; 27 O. G., 915. *Hurlbut v. Schillinger*, 130 U. S., 456; 47 O. G., 1067.

*Disclaimer made to obviate having included too many devices.*—*Sessions v. Romadka*, 145 U. S., 29; 59 O. G., 939.

*Disclaimer part of specification.*—*Dunbar v. Meyers*, 94 U. S., 187; 11 O. G., 35. *Schwarzwalder v. N. Y. Filter Co.*, 66 F. R., 152; 72 O. G., 1043.

*Disclaimer filed after bill.*—*Smith v. Nichols*, 21 Wall., 112.

*Purpose of disclaimer.*—*Hailes v. Albany Stove Co.*, 123 U. S., 582; 42 O. G., 95. *Union Met. Cartridge Co. v. U. S. Cartridge Co.*, 112 U. S., 624-645; 30 O. G., 771. *Collins & Co., v. Coes*, 130 U. S., 56-69; 47 O. G., 523.

SEC. 4918. Whenever there are interfering patents, any person interested in any one of them, or in the working of the invention claimed under either of them, may have relief against the interfering patentee, and all parties interested under him, by suit in equity against the owners of the interfering patent; and the court, on notice to adverse parties, and other due proceedings had according to the course of equity, may adjudge and declare either of the patents void in whole or in part, or inoperative, or invalid in any particular part of the United States, according to the interest of the parties in the patent or the invention patented. But no such judgment or adjudication shall affect the right of any person except the parties to the suit and those deriving title under them subsequent to the rendition of such judgment.

*Relation of improvements to original invention.*—*Cantrell v. Wallick*, 117 U. S., 689; 35 O. G., 871. *Robertson v. Blake*, 94 U. S., 728; 11 O. G., 877.

*Decision of Patent Office, effect in suit.*—*Appleton v. Ecaubert*, 67 F. R., 917; 71 O. G., 1617.

*Devices actually made as well as face of patent should be considered in determining interference.*—*Thomson-Houston Co. v. Western Co.*, 72 F. R., 530; 75 O. G., 347.

SEC. 4919. Damages for the infringement of any patent may be recovered by action on the case, in the name of the party interested either as patentee, assignee, or grantee. And whenever in any such action a verdict is rendered for the plaintiff, the court may enter judgment thereon for any sum above the amount found by the verdict as the actual damages sustained, according to the circumstances of the case, not exceeding three times the amount of such verdict, together with the costs.

*Actual damages, rule in law actions.*—*Birdsall v. Coolidge*, 93 U. S., 64; 10 O. G., 748.

*Anticipation, question for jury in law action.*—*Harper & Reynolds Co. v. Wilgus*, 56 F. R., 587; 64 O. G., 302.

*Conspiracy, action at law.*—*Ambler v. Choteau*, 107 U. S., 586.

*Infringement.*—*Fermentation Co. v. Maus*, 122 U. S., 413; 39 O. G., 1419. *Safety Valve Co. v. Steam Gage Co.*, 113 U. S., 157; 30 O. G., 991. *Lake Shore and S. M. Railway Co. v. Nat'l Car Brake Shoe Co.*, 110 U. S., 229; 26 O. G.,

915. Morley Co. v. Lancaster, 129 U. S., 263; 47 O. G. 267. Hurlbut v. Schillinger, 130 U. S., 456; 47 O. G. 1067. Plummer v. Sargent, 120 U. S., 442. Wollensack v. Sargent, 151 U. S., 221; 66 O. G., 1007. Deering v. Winona Works, 155 U. S., 286; 69 O. G., 1641. Dubois v. Kirk, 158 U. S., 58; 71 O. G., 889. National Cash Register Co. v. Boston Co., 156 U. S., 502; 70 O. G., 1793. Potts v. Creager, 155 U. S., 597; 70 O. G., 494. Belknap v. Schild, 16 U. S., 10; 74 O. G., 1121. Griswold v. Harker, 62 F. R., 389; 69 O. G., 369. Devlin v. Paynter, 64 F. R., 398; 69 O. G., 1365. Am. Paper Co. v. National Co., 51 F. R., 229; 61 O. G., 287. Gurney v. Oakes, 66 F. R., 1007; 73 O. G., 451. Capital Cash Reg. Co. v. Nat'l Cash Reg. Co., 70 F. R., 709; 73 O. G., 1864. Lalance & Grosjean Mfg. Co. v. Habermann Mfg. Co., 53 F. R., 375; 63 O. G., 1816. Celluloid Mfg. Co. v. Arlington Mfg. Co., 52 F. R., 740; 64 O. G., 1263. Adey v. Mott Iron Works, 55 F. R., 876; 64 O. G., 1400.

*Infringement doubtful, injunction refused.*—Ertel v. Stahl, 65 F. R., 517; 70 O. G., 1069. Schwarzwaldner v. N. Y. Filter Co., 66 F. R., 152; 72 O. G., 1043.

*Infringement of apparatus which delivers perishable article.*—Morgan Envelope Co. v. Albany Co., 152 U. S., 425; 67 O. G., 271.

*Infringement by purchaser from assignee.*—Keeler v. Standard Co., 157 U. S., 659; 71 O. G., 451.

*Infringement, pioneer invention.*—Westinghouse Co. v. N. Y. Co., 63 F. R., 962; 69 O. G., 945. Norton v. Jensen, 49 F. R., 859; 60 O. G., 1326.

*Noninfringement.*—Coon v. Wilson, 113 U. S., 268; 30 O. G., 889. Blake v. San Francisco, 113 U. S., 679; 31 O. G., 380. Thompson v. Boisselier, 114 U. S., 1; 31 O. G., 377. Sargent v. Hall Co., 114 U. S., 63; 31 O. G., 661. McMurray v. Mallory, 111 U. S., 97; 27 O. G., 915. Voss v. Fisher, 113 U. S., 213; 30 O. G., 1096. Grier v. Wilt, 120 U. S., 412; 38 O. G., 1365. Fay v. Cordesman, 109 U. S., 408; 25 O. G., 1277. Estey v. Burdett, 109 U. S., 633; 26 O. G., 637. Clements v. Excavating Co., 109 U. S., 641; 26 O. G., 353. Bussey v. Excelsior Co., 110 U. S., 131; 26 O. G., 733. Zane v. Saffe, 110 U. S., 200; 26 O. G., 737. Shepard v. Carrigan, 116 U. S., 593; 34 O. G., 1157. Yale Lock Co. v. Sargent, 117 U. S., 373; 35 O. G., 385. Consol. Valve Co. v. Kunkle, 119 U. S., 45; 37 O. G., 1003. California Co. v. Schalicke, 119 U. S., 401; 38 O. G., 329. Sutter v. Robinson, 119 U. S., 530; 38 O. G., 230. Sharp v. Riessner, 119 U. S., 631; 38 O. G., 418. Hartshorn v. Saginaw Co., 119 U. S., 664; 38 O. G., 540. Crawford v. Heysinger, 123 U. S., 589; 42 O. G., 197. Dryfoos v. Wiese, 124 U. S., 32; 42 O. G., 490. Yale Lock Co. v. James, 125 U. S., 447; 43 O. G., 881. Clark v. Beecher Co., 115 U. S., 79; 31 O. G., 1169. Wollensack v. Reiher, 115 U. S., 87; 31 O. G., 1303. Field v. DeComeau, 116 U. S., 187; 34 O. G., 559. Brown v. Davis, 116 U. S., 237; 34 O. G., 435. Worden v. Sears, 121 U. S., 14; 39 O. G., 359. McCormick v. Whitmer, Admr., 129 U. S., 1; 46 O. G., 448. Sargent v. Burgess, 129 U. S., 19; 46 O. G., 693. Peters v. Active Co., 129 U. S., 530; 47 O. G., 948. Béné v. Jeantet, 129 U. S., 683; 47 O. G., 402. Hendy v. Golden State Works, 127 U. S., 370; 43 O. G., 1117. Cook v. Sandusky Co., 15 Brodix, 120; 26 O. G., 1114. Wright v. Yuengling, 155 U. S., 47; 69 O. G., 639. United States v. Berdan Co., 156 U. S., 552. Miller v. Eagle Mfg. Co., 151 U. S., 186; 66 O. G., 845. McCarty v. Lehigh Co., 160 U. S., 110; 73 O. G., 1707. Elec. Light Co. v. McKeesport, 159 U. S., 465; 73 O. G., 1289. Lehigh Valley Co. v. Kearney, 158 U. S., 461; 72 O. G., 139. Boyd v. Janesville Co., 158 U. S., 260; 71 O. G., 1315. Black Diamond Co. v. Excelsior Co., 156 U. S., 611; 70 O. G., 1797. Roller Mill Co. v. Barnard & Leas, 156 U. S., 261; 70 O. G., 1065. Dashiel v. Grosvenor, 162 U. S., 425; 75 O. G., 507. Kinzel v. Luttrell Brick Co., 67 F. R., 926; 72 O. G., 900. Wright & Cotton Wire Cloth Co. v. Clinton Wire Cloth Co., 67 F. R., 790; 72 O. G., 1046. Bon-sak Mach. Co. v. Elliott, 69 F. R., 335; 72 O. G., 1654. Jensen Can-Filling Mach. Co. v. Norton, 67 F. R., 236; 73 O. G., 811. Thomson-Houston Elec. Co. v. West Elec. Co., 70 F. R., 69; 73 O. G., 1123. Gould Co. v. Trojan Co., 74 F. R., 794; 75 O. G., 2009. Brush Elec. Co. v. Western Co., 76 F. R., 761; 77 O. G., 1273. Stirratt v. Excelsior Co., 61 F. R., 980; 67 O. G., 1450. Cornell v. Bataille, 61 F. R., 684; 68 O. G., 916. Pacific Cable Co. v. Cons. Co., 62 F. R., 288; 69 O. G., 123.

*Noninfringement—Article made by particular process.*—Cochrane v. Badische Co., 111 U. S., 293; 27 O. G., 813.

*Noninfringement of combination claim.*—Rowell v. Lindsay, 113 U. S., 97; 31 O. G., 120. Elec. R'y Signal Co. v. Signal Co., 114 U. S., 87; 31 O. G., 515. Bragg v. Fitch, 121 U. S., 478; 39 O. G., 829. Snow v. Lake Shore Co., 121 U. S., 617; 39 O. G., 1081. Thomson-Houston Co. v. Kelsey Co., 75 F. R., 1005; 76 O. G., 2008.

*Evidence of novelty; discretion of lower court.*—St. Paul Plow Works v. Starling, 140 U. S., 184; 35 O. G., 1821.

*Patent for improvement does not convey right to use broad invention.*—Cantrell v. Wallick, 117 U. S., 689; 35 O. G., 871.

*Patent rights reached by creditors' bill.*—Ager v. Murray, 105 U. S., 126; 21 O. G., 1197.

*Contributory infringement.*—Heaton Co. v. Eureka Co., 77 F. R., 288; 78 O. G., 171.

*Repairing patented device.*—Shiekle, Etc., Co. v. St. Louis Co., 77 O. G., 2142. (Consult also citations under Sec. 4886, ante 15-18.)

SEC. 4920. In any action for infringement the defendant

may plead the general issue, and, having given notice in writing to the plaintiff or his attorney thirty days before, may prove on trial any one or more of the following special matters:

First. That for the purpose of deceiving the public the description and specification filed by the patentee in the Patent Office was made to contain less than the whole truth relative to his invention or discovery, or more than is necessary to produce the desired effect; or,

Second. That he had surreptitiously or unjustly obtained the patent for that which was in fact invented by another, who was using reasonable diligence in adapting and perfecting the same; or,

Third. That it has been patented or described in some printed publication prior to his supposed invention or discovery thereof, or more than two years prior to his application for a patent therefor; or,

Fourth. That he was not the original and first inventor or discoverer of any material and substantial part of the thing patented; or,

Fifth. That it had been in public use or on sale in this country for more than two years before his application for a patent, or had been abandoned to the public.

And in notices as to proof of previous invention, knowledge, or use of the thing patented, the defendant shall state the names of the patentees and the dates of their patents, and when granted, and the names and residences of the persons alleged to have invented or to have had the prior knowledge of the thing patented, and where and by whom it had been used; and if any one or more of the special matters alleged shall be found for the defendant, judgment shall be rendered for him with costs. And the like defenses may be pleaded in any suit in equity for relief against an alleged infringement; and proofs of the same may be given upon like notice in the answer of the defendant, and with the like effect.

*Complainants must prove infringement.*—Fuller *v.* Yentzer, 94 U. S., 288, 299; 11 O. G., 551, 597. Bates *v.* Coe, 98 U. S., 31; 15 O. G., 337.

*Damages must be proved.*—Robertson *v.* Blake, 94 U. S., 728; 11 O. G., 877. *Defenses to suit not confined to those mentioned in this statute.*—Gardiner *v.* Herz, 118 U. S., 180; 35 O. G., 999.

*Defense of priority.*—Clark Thread Co. *v.* Willimantic Linen Co., 140 U. S., 481; 56 O. G., 395.

*Defense of prior patent must be made below.*—Andrews *v.* Thum, 67 F. R., 911; 72 O. G., 899.

*Defense that complainant has no interest.*—Paine *v.* Trask, 56 F. R., 233; 65 O. G., 298.

*Delay as an estoppel.*—Thome Co. *v.* Washburn & Moen, 159 U. S., 423; 73 O. G., 1411.

*Denial of utility.*—Gandy *v.* Belt Co., 143 U. S., 587; 59 O. G., 1106.

*Denial of validity.*—Western Elec. Co. *v.* La Rue, 139 U. S., 601; 55 O. G., 571.

*Estoppel by former recovery.*—Russell *v.* Place, 94 U. S., 606; 12 O. G., 853.

*Estoppel by decree pro confesso.*—Thomson *v.* Wooster, 114 U. S., 104; 31 O. G., 913.

*Estoppel by assignment.*—Babcock *v.* Clarkson, 63 F. R., 607; 69 O. G., 1773.

*Estoppel of assignor.*—M. & H. Cash Carrier Co. *v.* Martin, 67 F. R., 786; 72 O. G., 744.

*No estoppel by application for patent.*—Haughey *v.* Lee, 151 U. S., 282; 66 O. G., 1450.

*Exceptions to judge's charge to the jury.*—Haines *v.* McLaughlin, 135 U. S., 584; 51 O. G., 1465.

*Expert testimony necessary.*—Waterman *v.* Shipman, 55 F. R., 982; 64 O. G., 713.

*Estoppel by interference proceedings in Office.*—Shoemaker *v.* Merrow, 61 F. R., 945; 68 O. G., 1523. Fassett *v.* Ewart Co., 63 F. R., 404; 69 O. G., 953.

*Fraudulent patents.*—P., W. & B. R. Co. *v.* Dubois, 12 Wall., 47.

*General purpose of the statute.*—Root *v.* R'y Co., 105 U. S., 189; 21 O. G., 1112. Albright *v.* Teas, 106 U. S., 613; 23 O. G., 829. Dolan *v.* Jennings, 139 U. S., 385; 55 O. G., 141. White *v.* Rankin, 144 U. S., 628; 59 O. G., 1606.

*Government needs no defense.*—Cammeyer *v.* Newton, 94 U. S., 225; 11 O. G., 287. U. S. *v.* Burns, 12 Wall., 246. U. S. *v.* McKeever, 23 O. G., 1525-1530. Hollister *v.* Benedict, 113 U. S., 59. United States *v.* Palmer, 128 U. S., 262. Solomons *v.* United States, 137 U. S., 342; 54 O. G., 265. Schillinger *v.* United States, 155 U. S., 163; 69 O. G., 1505. Belknap *v.* Schild, 161 U. S., 10; 74 O. G., 1121.

*Judicial notice.*—Brown *v.* Piper, 91 U. S., 37; 10 O. G., 417. Terhune *v.* Phillips, 99 U. S., 592. Slawson *v.* R. R. Co., 107 U. S., 649; 24 O. G., 99. Black Diamond Co. *v.* Excelsior Co., 156 U. S., 611; 70 O. G., 1797; Richards *v.* Chase Co., 159 U. S., 477; 73 O. G., 1710. Am. Fibre Co. *v.* Buckskin Co., 75 O. G., 833; 72 F. R., 508. Butte City Co. *v.* Pacific Co., 60 F. R., 410; 60 O. G., 1758-1760.

*Jurisdiction in equity, general demurrer.*—McCoy *v.* Nelson, 121 U. S., 484; 39 O. G., 831.

*Infringement is question for jury.*—Tucker *v.* Spaulding, 13 Wall., 453.

*Licensee estoppel.*—Dueber Co. *v.* Robbins, 75 F. R., 17; 77 O. G., 154.

*Law or equity procedure.*—Cochrane *v.* Deener, 94 U. S., 780; 11 O. G., 687. Hayward *v.* Andrews, 106 U. S., 672; 23 O. G., 533. Clark *v.* Wooster, 119 U. S., 322; 37 O. G., 1477. Germain *v.* Wilgus, 67 F. R., 597; 73 O. G., 1555.

*New matter in patent need not be specifically set forth in the answer.*—Eagleton Mfg. Co. *v.* Mfg. Co., 111 U. S., 490; 27 O. G., 1237.

*No suit under original after reissue.*—Reedy *v.* Scott, 23 Wall., 352; 7 O. G., 463.

*Ownership.*—Cammeyer *v.* Newton, 94 U. S., 225; 11 O. G., 287.

*Patentee need not notify intending infringer.*—P., W. & B. R. Co. *v.* Dubois, 12 Wall., 47.

*Patentee the original inventor.*—Sewall *v.* Jones, 91 U. S., 171; 9 O. G., 47. Loom Co. *v.* Higgins, 105 U. S., 580; 21 O. G., 2031. Atlantic Works *v.* Brady, 107 U. S., 192; 23 O. G., 1330.

*Patentee bound by his patent.*—Keystone Bridge Co. *v.* Phoenix Iron Co., 95 U. S., 274; 12 O. G., 980.

*Patents not set up in answer may be introduced to aid in construction of claims.*—Grier *v.* Wilt, 120 U. S., 412; 38 O. G., 1365.

*Point of void reissue must be made in lower court* (Klein *v.* Russell, 19 Wall., 433) *and must be by defendant.*—Smith *v.* Goodyear D. V. Co., 93 U. S., 486; 11 O. G., 246. Bates *v.* Coe, 98 U. S., 31; 15 O. G., 337.

*Proof of invalidity upon defendants.*—Seymour *v.* Osborne, 11 Wall., 516. Reckendorfer *v.* Faber, 92 U. S., 347; 10 O. G., 71. Roemer *v.* Simon, 95 U. S., 214; 12 O. G., 796. Imhaeuser *v.* Buerk, 101 U. S., 647; 17 O. G., 795.

*Questions for court and those for jury considered.*—Market Street Co. *v.* Rowley, 155 U. S., 621; 70 O. G., 632. Coupe *v.* Royer, 155 U. S., 565; 70 O. G., 779. Lumber Co. *v.* Rodgers, 112 U. S., 650; 30 O. G., 449. Keyes *v.* Grant, 118 U. S., 25; 35 O. G., 747. Humiston *v.* Wood, 124 U. S., 12. Royer *v.* Schultz Co., 135 U. S., 319; 52 O. G., 157. Miller *v.* Eagle Mfg. Co., 151 U. S., 186; 66 O. G., 845.

*Res adjudicata.*—Johnson Co. *v.* Wharton Co., 152 U. S., 252; 67 O. G., 274. Lyon *v.* Perrin & Gaff Co., 125 U. S., 698; 43 O. G., 983. David Bradley Co. *v.* Eagle Co., 58 F. R., 721; 66 O. G., 315. Elec. Accu. Co. *v.* Brush Co., 52 F. R., 130; 61 O. G., 886.

*Reconstruction may be infringement.*—Am. Cot. Tie Co. *v.* Simmons, 106 U. S., 89; 22 O. G., 1976.

*Statutes of limitations of the several States apply to patent suits.*—Campbell *v.* Haverhill, 155 U. S., 610; 70 O. G., 385.

*Under general denial prior knowledge may be shown.*—*Zane v. Saffe*, 110 U. S., 200; 26 O. G., 737.

*Validity and infringement must be clear to warrant preliminary injunction.*—*Stand. El. Co. v. Crane El. Co.*, 56 F. R., 718; 64 O. G., 438.

*Want of patentability need not be specifically pleaded.*—*May v. County of Juneau*, 137 U. S., 408; 53 O. G., 1888. *Hendy v. Golden State*, 127 U. S., 370; 43 O. G., 1117. *Richards v. Chase*, 158 U. S., 299; 71 O. G., 1456.

*Technical questions can not be raised on appeal where not raised below.*—*Tuttle v. Clafin*, 76 F. R., 227; 77 O. G., 973. *Smith & Davis Co. v. Mellon*, 58 F. R., 705; 66 O. G., 173.

SEC. 4921. The several courts vested with jurisdiction of cases arising under the patent laws shall have power to grant injunctions according to the course and principles of courts of equity, to prevent the violation of any right secured by patent, on such terms as the court may deem reasonable; and upon a decree being rendered in any such case for an infringement the complainant shall be entitled to recover, in addition to the profits to be accounted for by the defendant, the damages the complainant has sustained thereby; and the court shall assess the same or cause the same to be assessed under its direction. And the court shall have the same power to increase such damages, in its discretion, as is given to increase the damages found by verdicts in actions in the nature of actions of trespass upon the case.

But in any suit or action brought for the infringement of any patent there shall be no recovery of profits or damages for any infringement committed more than six years before the filing of the bill of complaint or the issuing of the writ in such suit or action, and this provision shall apply to existing causes of action.

*Articles imported from abroad—Measure of damages.*—*Boesch v. Graff*, 133 U. S., 697; 51 O. G., 477.

*Compensatory damages.*—*Birdsall v. Coolidge*, 93 U. S., 64; 10 O. G., 748.

*Court will not interfere to enjoin a pending suit at law, much less the bringing of one in the future.*—*Hapgood v. Hewitt*, 119 U. S., 226; 37 O. G., 1247.

*Decree against all defendants.*—*Hohorst v. Hamburg Am. Packet Co.*, 148 U. S., 262; 63 O. G., 155.

*Effect of laches on right to preliminary injunction.*—*Keyes v. Eureka Co.*, 158 U. S., 150; 71 O. G., 1027. *Russell v. Kern*, 69 F. R., 94; 72 O. G., 590.

*Effect of expiration of patent before final decree.*—*Beedle v. Bennett*, 122 U. S., 71; 39 O. G., 1326. *Clark v. Wooster*, 119 U. S., 322; 37 O. G., 1477.

*Infringement by equivalents.*—*Seymour v. Osborne*, 11 Wall., 516. *Gould v. Rees*, 15 Wall., 187. *Cawood Patent*, 94 U. S., 695; 12 O. G., 709.

*Infringer's liability.*—*Mowry v. Whitney*, 14 Wall., 620. *Philp v. Nock*, 17 Wall., 460. *Packet Co. v. Sickles*, 19 Wall., 611. *Littlefield v. Perry*, 21 Wall., 205; 7 O. G., 964. *Mason v. Graham*, 23 Wall., 261; 7 O. G., 833. *The Tremolo Patent*, 23 Wall., 518; 7 O. G., 1055. *Burdell v. Denig*, 92 U. S., 716. *Meys v. Conover*, 11 O. G., 1111. *Elizabeth v. Pavement Co.*, 97 U. S., 126. *Marsh v. Seymour*, 97 U. S., 348; 13 O. G., 723. *Goulds Mfg. Co. v. Cowing*, 105 U. S., 253; 21 O. G., 1277. *Crosby Valve Co. v. Safety Valve Co.*, 141 U. S., 441; 57 O. G., 1000. *McCreary v. Pa. Canal Co.*, 141 U. S., 459; 57 O. G., 1131. *Sessions v. Romadka*, 145 U. S., 29; 59 O. G., 939. *Consumer Co. v. Am. Co.*, 50 F. R., 778; 60 O. G., 738.

*Liabilities of parties, maker, user and seller.*—*Birdsell v. Shaliol*, 112 U. S., 485; 30 O. G., 261.

*Measure of damages.*—*Garretson v. Clark*, 111 U. S., 120; 27 O. G., 524. *Black v. Thorne*, 111 U. S., 122; 27 O. G., 415. *Rude v. Wescott*, 130 U. S., 152. *Hurlbut v. Schillinger*, 130 U. S., 456; 47 O. G., 1067. *Cornely v. Marckwald*,

131 U. S., 159; 47 O. G., 1353. *Thomson v. Wooster*, 114 U. S., 104; 31 O. G., 913. *Clark v. Wooster*, 119 U. S., 322; 37 O. G., 1477. *Seabury v. Am Ende*, 152 U. S., 561; 67 O. G., 401. *Warren v. Keep*, 155 U. S., 265; 69 O. G., 1647. *Belknap v. Schild*, 16 S. C. Reporter, 443; 74 O. G., 1121. *Holmes v. Truman*, 67 F. R., 542; 73 O. G., 448. *Hunt Bros. v. Cassidy*, 55 F. R., 257; 62 O. G., 1965. *Sayre v. Scott*, 55 F. R., 971; 63 O. G., 1818. *Keystone Co. v. Adams*, 151 U. S., 139; 66 O. G., 654. *Coupe v. Royer*, 155 U. S., 565; 70 O. G., 779. *Tilghman v. Proctor*, 125 U. S., 136; 43 O. G., 628. *Tuttle v. Clafin*, 76 F. R., 227; 77 O. G., 973. *Mosher v. Joyce*, 51 F. R., 441; 61 O. G., 153.

*Measure of damages, interest on damages—Death of patentee during suit.—Railroad Co. v. Turrill*, 110 U. S., 301; 26 O. G., 917.

*Not necessary to show recovery at law to warrant jurisdiction in equity for injunction.—McCoy v. Nelson*, 121 U. S., 484; 39 O. G., 831.

*Jurisdiction.—Heaton Co. v. Eureka Co.*, 78 O. G., 171.

*Perpetual injunction granted.—Safety Valve Co. v. Steam Co.*, 113 U. S., 157;

30 O. G., 991.

*Violation of preliminary injunction.—Warden v. Searls*, 121 U. S., 14; 39 O. G., 359.

*Injunction.—Am. Paper Co. v. National Co.*, 51 F. R., 229; 61 O. G., 287.

SEC. 2. That said courts [U. S. circuit courts], when sitting in equity for the trial of patent causes, may impanel a jury of not less than five and not more than twelve persons, subject to such general rules in the premises as may, from time to time, be made by the Supreme Court, and submit to them such questions of fact arising in such cause as such circuit court shall deem expedient.

And the verdict of such jury shall be treated and proceeded upon in the same manner and with the same effect as in the case of issues sent from chancery to a court of law and returned with such findings.

SEC. 4922. Whenever, through inadvertence, accident, or mistake, and without any wilful default or intent to defraud or mislead the public, a patentee has, in his specification, claimed to be the original and first inventor or discoverer of any material or substantial part of the thing patented, of which he was not the original and first inventor or discoverer, every such patentee, his executors, administrators, and assigns, whether of the whole or any sectional interest in the patent, may maintain a suit at law or in equity, for the infringement of any part thereof, which was bona fide his own, if it is a material and substantial part of the thing patented, and definitely distinguishable from the parts claimed without right, notwithstanding the specifications may embrace more than that of which the patentee was the first inventor or discoverer. But in every such case in which a judgment or decree shall be rendered for the plaintiff, no costs shall be recovered unless the proper disclaimer has been entered at the Patent Office before the commencement of the suit. But no patentee shall be entitled to the benefits of this section if he has unreasonably

neglected or delayed to enter a disclaimer. [See Secs. 973, 4917.]

*Disclaimer filed before rehearing considered.*—Roemer *v.* Bernheim, 132 U. S., 103; 49 O. G., 1535.

*Disclaimer filed after suit begun will prevent recovery of costs.*—Sessions *v.* Romadka, 145 U. S., 29; 59 O. G., 939.

SEC. 4923. Whenever it appears that a patentee, at the time of making his application for the patent, believed himself to be the original and first inventor or discoverer of the thing patented, the same shall not be held to be void on account of the invention or discovery, or any part thereof, having been known or used in a foreign country, before his invention or discovery thereof, if it had not been patented or described in a printed publication.

### DESIGNS.

SEC. 4929. Any person who has invented any new, original, and ornamental design for an article of manufacture, not known or used by others in this country before his invention thereof, and not patented or described in any printed publication in this or any foreign country before his invention thereof, or more than two years prior to his application, and not in public use or on sale in this country for more than two years prior to his application, unless the same is proved to have been abandoned, may, upon payment of the fees required by law and other due proceedings had, the same as in cases of invention or discoveries covered by section forty-eight hundred and eighty-six, obtain a patent therefor.

*Doubtful patentability.*—N. Y. Belt Co. *v.* N. J. Car Spring Co., 137 U. S., 445; 54 O. G., 135.

*Utility in designs.*—Smith *v.* Whitman Saddle Co., 148 U. S., 674.

*Novelty determined by ocular comparison.*—Braddock Glass Co. *v.* Macbeth, 64 F. R., 118; 70 O. G., 1799.

*Double use not patentable.*—Untermeyer *v.* Freund, 58 F. R., 205; 65 O. G., 1767.

*Invention.*—Caldwell *v.* Powell, 73 F. R., 488; 77 O. G., 1272.

*Lack of invention.*—Krick *v.* Jansen, 61 F. R., 847; 68 O. G., 1274. Paine *v.* Snowden, 50 F. R., 776; 60 O. G., 737.

*Must be ornamental.*—Rowe *v.* Blodgett & Clapp Co., 98 O. G., 1286.

SEC. 4930. The Commissioner may dispense with models of designs when the design can be sufficiently represented by drawings or photographs.

SEC. 4931. Patents for designs may be granted for the term of three years and six months, or for seven years, or for fourteen years, as the applicant may, in his application, elect.

SEC. 4932. Patentees of designs issued prior to the second

day of March, eighteen hundred and sixty-one, shall be entitled to extension of their respective patents for the term of seven years, in the same manner and under the same restrictions as are provided for the extension of patents for inventions or discoveries issued prior to the second day of March, eighteen hundred and sixty-one.

SEC. 4933. All the regulations and provisions which apply to obtaining or protecting patents for inventions or discoveries not inconsistent with the provisions of this Title, shall apply to patents for designs.

CHAP. 105.—*An act to amend the law relating to patents, trademarks and copyrights.*

*Be it enacted, etc.*, That hereafter, during the term of letters patent for a design, it shall be unlawful for any person other than the owner of said letters patent, without the license of such owner, to apply the design secured by such letters patent, or any colorable imitation thereof, to any article of manufacture for the purpose of sale, or to sell or expose for sale any article of manufacture to which such design or colorable imitation shall, without the license of the owner, have been applied, knowing that the same has been so applied. Any person violating the provisions, or either of them, of this section, shall be liable in the amount of two hundred and fifty dollars; and in case the total profit made by him from the manufacture or sale, as aforesaid, of the article or articles to which the design, or colorable imitation thereof, has been applied, exceeds the sum of two hundred and fifty dollars, he shall be further liable for the excess of such profit over and above the sum of two hundred and fifty dollars; and the full amount of such liability may be recovered by the owner of the letters patent, to his own use, in any circuit court of the United States having jurisdiction of the parties, either by action at law or upon a bill in equity for an injunction to restrain such infringement.

SEC. 2. That nothing in this act contained shall prevent, lessen, impeach, or avoid any remedy at law or in equity which any owner of letters patent for a design, aggrieved by the infringement of the same, might have had if this act had not been passed; but such owner shall not twice recover the profit made from the infringement.

*Profit meant is total profit.*—Untermeyer *v.* Freund, 58 F. R., 205; 65 O. G., 1767.

## FEES.

SEC. 4934. The following shall be the rates for patent fees: On filing each original application for a patent, except in design cases, fifteen dollars.

On issuing each original patent, except in design cases, twenty dollars.

In design cases: For three years and six months, ten dollars; for seven years, fifteen dollars; for fourteen years, thirty dollars.

On filing each caveat, ten dollars.

On every application for the reissue of a patent, thirty dollars.

On filing each disclaimer, ten dollars.

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On an appeal for the first time from the primary examiners to the examiners-in-chief, ten dollars.

On every appeal from the examiners-in-chief to the Commissioner, twenty dollars.

For certified copies of patents and other papers, including certified printed copies, ten cents per hundred words.

For recording every assignment, agreement, power of attorney, or other paper, of three hundred words or under, one dollar; of over three hundred and under one thousand words, two dollars; of over one thousand words, three dollars.

Certified copies of such drawings and specifications may be furnished by the Commissioner of Patents to persons applying therefor upon payment of the present rates for uncertified copies, and twenty-five cents additional for each certification.

For copies of drawings, the reasonable cost of making them.

SEC. 4935. Patent fees may be paid to the Commissioner of Patents, or to the Treasurer, or any of the assistant treasurers of the United States, or to any of the designated depositaries, national banks, or receivers of public money, designated by the Secretary of the Treasury for that purpose; and such officer shall give the depositor a receipt or certificate of deposit therefor. All money received at the Patent Office, for any purpose, or from any source whatever, shall be paid into the Treasury as received, without any deduction whatever.

SEC. 4936. The Treasurer of the United States is authorized

to pay back any sum or sums of money to any person who has through mistake paid the same into the Treasury, or to any receiver or depositary, to the credit of the Treasury, as for fees accruing at the Patent Office, upon a certificate thereof being made to the Treasurer by the Commissioner of Patents.

PATENT RIGHTS VEST IN ASSIGNEE IN BANKRUPTCY.

SEC. 5046. All property conveyed by the bankrupt in fraud of his creditors; all rights in equity, choses in action, patent-rights, and copyrights; all debts due him, or any person for his use, and all liens and securities therefor; and all his rights of action for property or estate, real or personal, and for any cause of action which he had against any person arising from contract or from the unlawful taking or detention, or injury to the property of the bankrupt; and all his rights of redeeming such property or estate; together with the like right, title, power, and authority to sell, manage, dispose of, sue for, and recover or defend the same, as the bankrupt might have had if no assignment had been made, shall, in virtue of the adjudication of bankruptcy and the appointment of his assignee, but subject to the exceptions stated in the preceding section, be at once vested in [in] such assignee.

SEC. 70. Title to Property. The trustee of the estate of a bankrupt, upon his appointment and qualification, and his successor or successors, if he shall have one or more, upon his or their appointment and qualification, shall in turn be vested by operation of law with the title of the bankrupt, as of the date he was adjudged a bankrupt, except in so far as it is to property which is exempt, to all (1) documents relating to his property; (2) interests in patents, patent rights, copyrights, and trade-marks.

## UNITED STATES STATUTES

CONCERNING THE

## REGISTRATION OF TRADE-MARKS,

WITH THE

RULES OF THE PATENT OFFICE RELATING THERETO.

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Revised August 1, 1906.  
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AN ACT to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the owner of a trade-mark used in commerce with foreign nations, or among the several States, or with Indian tribes, provided such owner shall be domiciled within the territory of the United States, or resides in or is located in any foreign country which, by treaty, convention, or law, affords similar privileges to the citizens of the United States, may obtain registration for such trade-mark by complying with the following requirements: First, by filing in the Patent Office an application therefor, in writing, addressed to the Commissioner of Patents, signed by the applicant, specifying his name, domicile, location, and citizenship; the class of merchandise and the particular description of goods comprised in such class to which the trade-mark is appropriated; a description of the trade-mark*

[Act of May 4, 1906.]

*itself, only when needed to express colors not shown in the drawing, and a statement of the mode in which the same is applied and affixed to goods, and the length of time during which the trade-mark has been used. With this statement shall be filed a drawing of the trade-mark, signed by the applicant, or his attorney, and such number of specimens of the trade-mark, as actually used, as may be required by the Commissioner of Patents. Second, by paying into the Treasury of the United States the sum of ten dollars, and otherwise complying*

with the requirements of this Act and such regulations as may be prescribed by the Commissioner of Patents.

SEC. 2. That the application prescribed in the foregoing section, in order to create any right whatever in favor of the party filing it, must be accompanied by a written declaration verified by the applicant, or by a member of the firm or an officer of the corporation or association applying, to the effect that the applicant believes himself or the firm, corporation, or association in whose behalf he makes the application to be the owner of the trade-mark sought to be registered, and that no other person, firm, corporation, or association, to the best of the applicant's knowledge and belief, has the right to such use, either in the identical form or in such near resemblance thereto as might be calculated to deceive; that such trade-mark is used in commerce among the several States, or with foreign nations, or with Indian tribes, and that the description and drawing presented truly represent the trade-mark sought to be registered. If the applicant resides or is located in a foreign country, the statement required shall, in addition to the foregoing, set forth that the trade-mark has been registered by the applicant, or that an application for the registration thereof has been filed by him in the foreign country in which he resides or is located, and shall give the date of such registration, or the application therefor, as the case may be, except that in the application in such cases it shall not be necessary to state that the mark has been used in commerce with the United States or among the States thereof. The verification required by this section may be made before any person within the United States authorized by law to administer oaths, or, when the applicant resides in a foreign country, before any minister, chargé d'affaires, consul, or commercial agent holding commission under the Government of the United States, or before any notary public, judge, or magistrate having an official seal and authorized to administer oaths in the foreign country in which the applicant may be whose authority shall be proved by a certificate of a diplomatic or consular officer of the United States.

SEC. 3. That every applicant for registration of a trade-mark, or for renewal of registration of a trade-mark, who is not domiciled within the United States, shall, before the issuance

of the certificate of registration, as hereinafter provided for, designate, by a notice in writing, filed in the Patent Office, some person residing within the United States on whom process or notice of proceedings affecting the right of ownership of the trade-mark of which such applicant may claim to be the owner, brought under the provisions of this Act or under other laws of the United States, may be served, with the same force and effect as if served upon the applicant or registrant in person. For the purposes of this Act it shall be deemed sufficient to serve such notice upon such applicant, registrant, or representative by leaving a copy of such process or notice addressed to him at the last address of which the Commissioner of Patents has been notified.

SEC. 4. That an application for registration of a trademark filed in this country by any person who has previously regularly filed in any foreign country which, by treaty, convention, or law, affords similar privileges to citizens of the United States, an application for registration of the same trademark shall be accorded the same force and effect as would be accorded to the same application if filed in this country on the date on which application for registration of the same trademark was first filed in such foreign country: *Provided*, That such application is filed in this country within four months from the date on which the application was first filed in such foreign country: *And provided*, That certificate of registration shall not be issued for any mark for registration of which application has been filed by an applicant located in a foreign country until such mark has been actually registered by the applicant in the country in which he is located.

SEC. 5. That no mark by which the goods of the owner of the mark may be distinguished from other goods of the same class shall be refused registration as a trade-mark on account of the nature of such mark unless such mark—

- (a) Consists of or comprises immoral or scandalous matter;
- (b) Consists of or comprises the flag or coat of arms or other insignia of the United States, or any simulation thereof, or of any State or municipality, or of any foreign nation: *Provided*, That trade-marks which are identical with a registered or known trade-mark owned and in use by another, and appropriated to merchandise of the same descriptive properties, or

which so nearly resemble a registered or known trade-mark owned and in use by another, and appropriated to merchandise of the same descriptive properties, as to be likely to cause confusion or mistake in the mind of the public, or to deceive purchasers, shall not be registered: *Provided*, That no mark which consists merely in the name of an individual, firm, corporation, or association, not written, printed, impressed, or woven in some particular or distinctive manner or in association with a portrait of the individual, or merely in words or devices which are descriptive of the goods with which they are used, or of the character or quality of such goods, or merely a geographical name or term, shall be registered under the terms of this Act: *Provided further*, That no portrait of a living individual may be registered as a trade mark, except by the consent of such individual, evidenced by an instrument in writing: *And provided further*, That nothing herein shall prevent the registration of any mark used by the applicant or his predecessors, or by those from whom title to the mark is derived, in commerce with foreign nations or among the several States, or with Indian tribes, which was in actual and exclusive use as a trade-mark of the applicant or his predecessors from whom he derived title for ten years next preceding the passage of this act.

SEC. 6. That on the filing of an application for registration of a trade-mark which complies with the requirements of this Act, and the payment of the fees herein provided for, the Commissioner of Patents shall cause an examination thereof to be made; and if on such examination it shall appear that the applicant is entitled to have his trade-mark registered under the provisions of this Act, the Commissioner shall cause the mark to be published at least once in the Official Gazette of the Patent Office. Any person who believes he would be damaged by the registration of a mark may oppose the same by filing notice of opposition, stating the grounds therefor, in the Patent Office within thirty days after the publication of the mark sought to be registered, which said notice of opposition shall be verified by the person filing the same before one of the officers mentioned in section two of this Act. If no notice of opposition is filed within said time the Commissioner shall issue a certificate of registration therefor, as hereinafter provided for. If

on examination an application is refused, the Commissioner shall notify the applicant, giving him his reasons therefor.

SEC. 7. That in all cases where notice of opposition has been filed the Commissioner of Patents shall notify the applicant thereof and the grounds therefor.

Whenever application is made for the registration of a trade-mark which is substantially identical with a trade-mark appropriated to goods of the same descriptive properties, for which a certificate of registration has been previously issued to another, or for registration of which another has previously made application, or which so nearly resembles such trade-mark, or a known trade-mark owned and used by another, as, in the opinion of the Commissioner, to be likely to be mistaken therefor by the public, he may declare that an interference exists as to such trade-mark, and in every case of interference or opposition to registration he shall direct the examiner in charge of interferences to determine the question of the right of registration to such trade-mark, and of the sufficiency of objections to registration, in such manner and upon such notice to those interested as the Commissioner may by rules prescribe.

The Commissioner may refuse to register the mark against the registration of which objection is filed, or may refuse to register both of two interfering marks, or may register the mark, as a trade-mark, for the person first to adopt and use the mark, if otherwise entitled to register the same, unless an appeal is taken, as hereinafter provided for, from his decision, by a party interested in the proceeding, within such time (not less than twenty days) as the Commissioner may prescribe.

SEC. 8. That every applicant for the registration of a trade-mark, or for the renewal of the registration of a trade-mark, which application is refused, or a party to an interference against whom a decision has been rendered, or a party who has filed notice of opposition as to a trade-mark, may appeal from the decision of the examiner in charge of trade-marks, or the examiner in charge of interferences, as the case may be, to the Commissioner in person, having once paid the fee for such appeal.

SEC. 9. That if an applicant for registration of a trade-mark, or a party to an interference as to a trade-mark, or a party who has filed opposition to the registration of a trade-mark, or

party to an application for the cancellation of the registration of a trade-mark, is dissatisfied with the decision of the Commissioner of Patents, he may appeal to the court of appeals of the District of Columbia, on complying with the conditions required in case of an appeal from the decision of the Commissioner by an applicant for patent, or a party to an interference as to an invention, and the same rules of practice and procedure shall govern in every stage of such proceedings, as far as the same may be applicable.

SEC. 10. That every registered trade-mark, and every mark for the registration of which application has been made, together with the application for registration of the same, shall be assignable in connection with the good will of the business in which the mark is used. Such assignment must be by an instrument in writing and duly acknowledged according to the laws of the country or State in which the same is executed; any such assignment shall be void as against any subsequent purchaser for a valuable consideration, without notice, unless it is recorded in the Patent Office within three months from date thereof. The Commissioner shall keep a record of such assignments.

SEC. 11. That certificates of registration of trade-marks shall be issued in the name of the United States of America, under the seal of the Patent Office, and shall be signed by the Commissioner of Patents, and a record thereof, together with printed copies of the drawing and statement of the applicant, shall be kept in books for that purpose. The certificate shall state the date on which the application for registration was received in the Patent Office. Certificates of registration of trade-marks may be issued to the assignee of the applicant, but the assignment must first be entered of record in the Patent Office.

Written or printed copies of any records, books, papers, or drawings relating to trade-marks belonging to the Patent Office, and of certificates of registration, authenticated by the seal of the Patent Office and certified by the Commissioner thereof, shall be evidence in all cases wherein the originals could be evidence; and any person making application therefor and paying the fee required by law shall have certified copies thereof.

SEC. 12. That a certificate of registration shall remain in force for twenty years, except that in the case of trade-marks previously registered in a foreign country such certificates shall cease to be in force on the day on which the trade-mark ceases to be protected in such foreign country, and shall in no case remain in force more than twenty years, unless renewed. Certificates of registration may be from time to time renewed for like periods on payment of the renewal fees required by this Act, upon request by the registrant, his legal representatives, or transferees of record in the Patent Office, and such request may be made at any time not more than six months prior to the expiration of the period for which the certificates of registration were issued or renewed. Certificates of registration in force at the date at which this Act takes effect shall remain in force for the period for which they were issued, but shall be renewable on the same conditions and for the same periods as certificates issued under the provisions of this Act, and when so renewed shall have the same force and effect as certificates issued under this Act.

SEC. 13. That whenever any person shall deem himself injured by the registration of a trade-mark in the Patent Office he may at any time apply to the Commissioner of Patents to cancel the registration thereof. The Commissioner shall refer such application to the examiner in charge of interferences, who is empowered to hear and determine this question and who shall give notice thereof to the registrant. If it appear after a hearing before the examiner that the registrant was not entitled to the use of the mark at the date of his application for registration thereof, or that the mark is not used by the registrant, or has been abandoned, and the examiner shall so decide, the Commissioner shall cancel the registration. Appeal may be taken to the Commissioner in person from the decision of examiner of interferences.

SEC. 14. That the following shall be the rates for trade-mark fees:

On filing each original application for registration of a trade-mark, ten dollars: *Provided*, That an application for registration of a trade-mark pending at the date of the passage of this Act, and on which certificate of registration shall not have issued at such date, may, at the option of the applicant, be proceeded

with and registered under the provisions of this Act without the payment of further fee.

On filing each application for renewal of the registration of a trade-mark, ten dollars.

On filing notice of opposition to the registration of a trade-mark, ten dollars.

On an appeal from the examiner in charge of trade-marks to the Commissioner of Patents, fifteen dollars.

On an appeal from the decision of the examiner in charge of interferences, awarding ownership of a trade-mark or canceling the registration of a trade-mark, to the Commissioner of Patents, fifteen dollars.

For certified and uncertified copies of certificates of registration and other papers, and for recording transfers and other papers, the same fees as required by law for such copies of patents and for recording assignments and other papers relating to patents.

SEC. 15. That sections forty-nine hundred and thirty-five and forty-nine hundred and thirty-six of the Revised Statutes, relating to the payment of patent fees and to the repayment of fees paid by mistake, are hereby made applicable to trade-mark fees.

SEC. 16. That the registration of a trade-mark under the provisions of this Act shall be *prima facie* evidence of ownership. Any person who shall, without the consent of the owner thereof, reproduce, counterfeit, copy, or colorably imitate any such trade-mark and affix the same to merchandise of substantially the same descriptive properties as those set forth in the registration, or to labels, signs, prints, packages, wrappers, or receptacles intended to be used upon or in connection with the sale of merchandise of substantially the same descriptive properties as those set forth in such registration, and shall use, or shall have used, such reproduction, counterfeit, copy, or colorable imitation in commerce among the several States, or with a foreign nation, or with the Indian tribes, shall be liable to an action for damages therefor at the suit of the owner thereof; and whenever in any such action a verdict is rendered for the plaintiff, the court may enter judgment therein for any sum above the amount found by the verdict as the actual damages,

according to the circumstances of the case, not exceeding three times the amount of such verdict, together with the costs.

SEC. 17. That the circuit and territorial courts of the United States and the supreme court of the District of Columbia shall have original jurisdiction, and the circuit courts of appeal of the United States and the court of appeals of the District of Columbia shall have appellate jurisdiction of all suits at law or in equity respecting trade-marks registered in accordance with the provisions of this Act, arising under the present Act, without regard to the amount in controversy.

SEC. 18. That writs of certiorari may be granted by the Supreme Court of the United States for the review of cases arising under this Act in the same manner as provided for patent cases by the Act creating the circuit court of appeals.

SEC. 19. That the several courts vested with jurisdiction of cases arising under the present Act shall have power to grant injunctions, according to the course and principles of equity, to prevent the violation of any right of the owner of a trade-mark registered under this Act, on such terms as the court may deem reasonable; and upon a decree being rendered in any such case for wrongful use of a trade-mark the complainant shall be entitled to recover, in addition to the profits to be accounted for by the defendant, the damages the complainant has sustained thereby, and the court shall assess the same or cause the same to be assessed under its direction. The court shall have the same power to increase such damages, in its discretion, as is given by section sixteen of this Act for increasing damages found by verdict in actions of law; and in assessing profits the plaintiff shall be required to prove defendant's sales only; defendant must prove all elements of cost which are claimed.

SEC. 20. That in any case involving the right to a trade-mark registered in accordance with the provisions of this Act, in which the verdict has been found for the plaintiff, or an injunction issued, the court may order that all labels, signs, prints, packages, wrappers, or receptacles in the possession of the defendant, bearing the trade-mark of the plaintiff or complainant, or any reproduction, counterfeit, copy, or colorable imitation thereof, shall be delivered up and destroyed. Any injunction that may be granted upon hearing, after notice to

the defendant, to prevent the violation of any right of the owner of a trade-mark registered in accordance with the provisions of this Act, by any circuit court of the United States, or by a judge thereof, may be served on the parties against whom such injunction may be granted anywhere in the United States where they may be found, and shall be operative, and may be enforced by proceedings to punish for contempt, or otherwise, by the court by which such injunction was granted, or by any other circuit court, or judge thereof, in the United States, or by the supreme court of the District of Columbia, or a judge thereof. The said courts, or judges thereof, shall have jurisdiction to enforce said injunction, as herein provided, as fully as if the injunction had been granted by the circuit court in which it is sought to be enforced. The clerk of the court or judge granting the injunction shall, when required to do so by the court before which application to enforce said injunction is made, transfer without delay to said court a certified copy of all the papers on which the said injunction was granted that are on file in his office.

SEC. 21. That no action or suit shall be maintained under the provisions of this Act in any case when the trade-mark is used in unlawful business, or upon any article injurious in itself, or which mark has been used with the design of deceiving the public in the purchase of merchandise, or has been abandoned, or upon any certificate of registration fraudulently obtained.

SEC. 22. That whenever there are interfering registered trademarks, any person interested in any one of them may have relief against the interfering registrant, and all persons interested under him, by suit in equity against the said registrant; and the court, on notice to adverse parties and other due proceedings had according to the course of equity, may adjudge and declare either of the registrations void in whole or in part according to the interest of the parties in the trade-mark, and may order the certificate of registration to be delivered up to the Commissioner of Patents for cancellation.

SEC. 23. That nothing in this Act shall prevent, lessen, impeach, or avoid any remedy at law or in equity which any party aggrieved by any wrongful use of any trade-mark might have had if the provisions of this Act had not been passed.

SEC. 24. That all applications for registration pending in the

office of the Commissioner of Patents at the time of the passage of this Act may be amended with a view to bringing them, and the certificate issued upon such applications, under its provisions, and the prosecution of such applications may be proceeded with under the provisions of this Act.

SEC. 25. That any person who shall procure registration of a trade-mark, or entry thereof, in the office of the Commissioner of Patents by a false or fraudulent declaration or representation, oral or in writing, or by any false means, shall be liable to pay any damages sustained in consequence thereof to the injured party, to be recovered by an action on the case.

SEC. 26. That the Commissioner of Patents is authorized to make rules and regulations, not inconsistent with law, for the conduct of proceedings in reference to the registration of trademarks provided for by this Act.

SEC. 27. That no article of imported merchandise which shall copy or simulate the name of any domestic manufacture, or manufacturer or trader, or of any manufacturer or trader located in any foreign country which, by treaty, convention, or law affords similar privileges to citizens of the United States, or which shall copy or simulate a trade-mark registered in accordance with the provisions of this Act, or shall bear a name or mark calculated to induce the public to believe that the article is manufactured in the United States, or that it is manufactured in any foreign country or locality other than the country or locality in which it is in fact manufactured, shall be admitted to entry at any custom-house of the United States; and, in order to aid the officers of the customs in enforcing this prohibition, any domestic manufacturer or trader, and any foreign manufacturer or trader, who is entitled under the provisions of a treaty, convention, declaration, or agreement between the United States and any foreign country to the advantages afforded by law to citizens of the United States in respect to trade-marks and commercial names, may require his name and residence, and the name of the locality in which his goods are manufactured, and a copy of the certificate of registration of his trade-mark, issued in accordance with the provisions of this Act, to be recorded in books which shall be kept for this purpose in the Department of the Treasury, under such regulations as the Secretary of the Treasury shall prescribe, and may furnish to the Department

facsimiles of his name, the name of the locality in which his goods are manufactured, or of his registered trade-mark; and thereupon the Secretary of the Treasury shall cause one or more copies of the same to be transmitted to each collector or other proper officer of customs.

SEC. 28. That it shall be the duty of the registrant to give notice to the public that a trade-mark is registered, either by affixing thereon the words "Registered in U. S. Patent Office," or abbreviated thus, "Reg. U. S. Pat. Off.," or when, from the character or size of the trade-mark, or from its manner of attachment to the article to which it is appropriated, this can not be done, then by affixing a label containing a like notice to the package or receptacle wherein the article or articles are inclosed; and in any suit for infringement by a party failing so to give notice of registration no damages shall be recovered, except on proof that the defendant was duly notified of infringement, and continued the same after such notice.

SEC. 29. That in construing this Act the following rules must be observed, except where the contrary intent is plainly apparent from the context thereof: The United States includes and embraces all territory which is under the jurisdiction and control of the United States. The word "States" includes and embraces the District of Columbia, the Territories of the United States, and such other territory as shall be under the jurisdiction and control of the United States. The terms "person" and "owner," and any other word or term used to designate the applicant or other entitled to a benefit or privilege or rendered liable under the provisions of this Act, include a firm, corporation, or association as well as a natural person. The term "applicant" and "registrant" embrace the successors and assigns of such applicant or registrant. The term "trade-mark" includes any mark which is entitled to registration under the terms of this Act, and whether registered or not, and a trade-mark shall be deemed to be "affixed" to an article when it is placed in any manner in or upon either the article itself or the receptacle or package or upon the envelope or other thing in, by, or with which the goods are packed or inclosed or otherwise prepared for sale or distribution.

SEC. 30. That this Act shall be in force and take effect April first, nineteen hundred and five. All Acts and parts of Acts in-

consistent with this Act are hereby repealed except so far as the same may apply to certificates of registration issued under the Act of Congress approved March third, eighteen hundred and eighty-one, entitled "An Act to authorize the registration of trade-marks and protect the same," or under the Act approved August fifth, eighteen hundred and eighty-two, entitled, "An Act relating to the registration of trade-marks."

Approved, February 20, 1905.

An Act To amend the laws of the United States relating to the registration of trade-marks.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section one of the Act entitled "An Act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same," approved February twentieth, nineteen hundred and five, be, and is hereby, amended by inserting after the words "description of the trade-mark itself" the words "only when needed to express colors not shown in the drawing," so that the section, as amended, shall read as follows:*

"That the owner of a trade-mark used in commerce with foreign nations, or among the several States, or with Indian tribes, provided such owner shall be domiciled within the territory of the United States or resides in or is located in any foreign country which, by treaty, convention, or law, affords similar privileges to the citizens of the United States, may obtain registration for such trade-mark by complying with the following requirements: First, by filing in the Patent Office an application therefor, in writing, addressed to the Commissioner of Patents, signed by the applicant, specifying his name, domicile, location, and citizenship; the class of merchandise and the particular description of goods comprised in such class to which the trade-mark is appropriated; a description of the trade-mark itself, only when needed to express colors not shown in the drawing, and a statement of the mode in which the same is applied and affixed to goods, and the length of time during which the trade-mark has been used. With this statement shall be filed a drawing of the trade-mark, signed by the applicant, or his attorney, and such number of specimens of the trade-mark as actually used as may be re-

quired by the Commissioner of Patents. Second, by paying into the Treasury of the United States the sum of ten dollars, and otherwise complying with the requirements of this Act and such regulations as may be prescribed by the Commissioner of Patents."

SEC. 2. That the Commissioner of Patents shall establish classes of merchandise for the purpose of trade-mark registration, and shall determine the particular descriptions of goods comprised in each class. On a single application for registration of a trade-mark the trade-mark may be registered at the option of the applicant for any or all goods upon which the mark has actually been used comprised in a single class of merchandise, provided the particular descriptions of goods be stated.

SEC. 3. That any owner of a trade-mark who shall have a manufacturing establishment within the territory of the United States shall be accorded, so far as the registration and protection of trade-marks used on the products of such establishment are concerned, the same rights and privileges that are accorded to owners of trade-marks domiciled within the territory of the United States by the Act entitled "An Act to authorize the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and to protect the same," approved February twentieth, nineteen hundred and five.

SEC. 4. That this Act shall take effect July first, nineteen hundred and six.

Approved, May 4, 1906.

RULES GOVERNING THE REGISTRATION OF TRADE-MARKS UNDER THE ACT APPROVED FEBRUARY 20, 1905, TO TAKE EFFECT APRIL 1, 1905, AND UNDER THE ACT APPROVED MAY 4, 1906, TO TAKE EFFECT JULY 1, 1906.

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UNITED STATES PATENT OFFICE,  
*Washington, D. C., August 1, 1906.*

The following rules, designed to be in strict accordance with the provisions of the acts approved February 20, 1905, and

May 4, 1906, for the registration of trade-marks, are published for gratuitous distribution.

Applicants for registration and their attorneys are advised that their business will be facilitated by the observance of the forms on pages 35 to 42.

FREDERICK I. ALLEN,  
*Commissioner of Patents.*

CORRESPONDENCE.

1. All business with the Office should be transacted in writing. Unless by the consent of all parties, the action of the Office will be based exclusively on the written record. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

2. Applicants and attorneys will be required to conduct their business with the Office with decorum and courtesy. Papers presented in violation of this requirement will be returned; but all such papers will first be submitted to the Commissioner, and only be returned by his direct order.

3. All letters should be addressed to "The Commissioner of Patents;" and all remittances by money order, check, or draft should be to his order.

4. A separate letter should, in every case, be written in relation to each distinct subject of inquiry or application. Complaints against the examiner in charge of trade-marks, assignments for record, fees, and orders for copies or abstracts must be sent to the Office in separate letters.

5. Letters relating to pending applications should refer to the name of the applicant, the serial number of the application, and the date of filing. Letters relating to registered trade-marks should refer to the name of the registrant, the number and date of the certificate, and the merchandise to which the trade-mark is applied.

6. The personal attendance of applicants at the Patent Office is unnecessary. Their business can be transacted by correspondence.

7. When an attorney shall have filed his power of attorney duly executed, the correspondence will be held with him.

8. A double correspondence with an applicant and his attorney, or with two attorneys, cannot, generally, be allowed.

9. The Office cannot undertake to respond to inquiries propounded with a view to ascertain whether certain trade-marks have been registered, or, if so, to whom, or for what goods; nor can it give advice as to the nature and extent of the protection afforded by the law, or act as its expounder, except as questions may arise upon applications regularly filed.

10. Express, freight, postage, and all other charges on matter sent to the Patent Office must be prepaid in full; otherwise it will not be received.

#### ATTORNEYS.

11. An applicant or an assignee of the entire interest may prosecute his own case, but he is advised, unless familiar with such matters, to employ a competent attorney. The Office cannot aid in the selection of any attorney.

A register of attorneys is kept in this Office, on which will be entered the names of all persons entitled to represent applicants before the Patent Office. The names of persons in the following classes will, upon their written request, be entered on this register:

(a) Any attorney at law who is in good standing in any court of record in the United States or any of the States or Territories thereof and who shall furnish a certificate of the clerk of such United States, State, or Territorial court, duly authenticated under the seal of the court, that he is an attorney in good standing.

(b) Any person who has been regularly recognized as an attorney or agent to represent claimants before the Department of the Interior, or any bureau thereof, and is in good standing, provided that such person shall furnish a statement of the date of his admission to practice as such attorney or agent, and shall further show, if required by the Commissioner, that he is possessed of the necessary qualifications to render applicants valuable service, and is otherwise competent to advise and assist them in the presentation and prosecution of their applications before the Patent Office.

(c) Any person, not an attorney at law, who shall file a certificate from a judge of a United States, State, or Terri-

torial court, duly authenticated under the seal of the court, that such person is of good moral character and of good repute and possessed of the necessary qualifications to enable him to render applicants valuable service, and is otherwise competent to advise and assist them in the presentation and prosecution of their applications before the Patent Office.

(d) Any firm, not entitled to registration under the preceding sections, which shall show that the individuals composing the firm are each and all recognized as patent attorneys or agents, or are each and all entitled to be so recognized under the preceding sections of this rule.

The Commissioner may demand additional proof of qualifications, and reserves the right to decline to recognize any attorney, agent, or other person applying for registration under this rule.

Any person or firm, not registered and not entitled to be recognized under this rule as an attorney or agent to represent applicants generally, may, upon a showing of circumstances which render it necessary or justifiable, be recognized by the Commissioner to prosecute as attorney or agent any certain specified application or applications, but this limited recognition shall not extend further than the application or applications named.

No person, not registered as above provided, will be permitted to prosecute, as attorney, applications before the Patent Office.

12. Before any attorney, original or associate, will be allowed to inspect papers or take action of any kind, his power of attorney must be filed. General powers given by a principal to an associate cannot be considered. In each application, the written authorization must be filed. A power of attorney purporting to have been given to a firm or copartnership will not be recognized, either in favor of the firm or of any of its members, unless all its members shall be named in such power of attorney.

13. Substitution or association may be made by an attorney upon the written authorization of his principal; but such authorization will not empower the second attorney to appoint a third.

14. Powers of attorney may be revoked at any stage in the

proceedings of a case upon application to and approval by the Commissioner; and, when so revoked, the Office will communicate directly with the applicant, or such other attorney as he may appoint. An attorney will be promptly notified, by the docket clerk, of the revocation of his power of attorney.

15. For gross misconduct, the Commissioner may refuse to recognize any person as an attorney, either generally or in any particular case; but the reasons for such refusal will be duly recorded and be subject to the approval of the Secretary of the Interior.

#### WHO MAY REGISTER A TRADE-MARK.

16. A trade-mark may be registered by any person, firm, corporation, or association domiciled within the territory of the United States, or residing in or located in any foreign country which, by treaty, convention, or law, affords similar privileges to the citizens of the United States, and who is entitled to the use of any trade-mark and uses the same in commerce with foreign nations, or among the several States, or with Indian tribes, upon payment of the fee required by law and other due proceedings had. (See rules 17 and 20.)

17. Except as provided by section 3 of the act of May 4, 1906, no trade-mark will be registered to an applicant residing or located in a foreign country unless such country, by treaty, convention, or law, affords similar privileges to the citizens of the United States, nor unless the trade-mark has been registered by the applicant in the foreign country in which he resides or is located, nor until such applicant has filed in this Office a certified copy of the certificate of registration of his trade-mark in the country where he resides or is located. In such cases, it is not necessary to state, in the application, that the trade-mark has been used in commerce with the United States or among the several States thereof.

18. The owner of a trade-mark, residing or located in a foreign country and who shall have a manufacturing establishment within the territory of the United States, may register a trade-mark used on the products of such establishment upon complying with the provisions of the act of February 20, 1905, as prescribed for owners of trade-marks domiciled within the territory of the United States.

## WHAT MAY BE REGISTERED AS A TRADE-MARK.

19. No trade-mark will be registered to an owner domiciled within the territory of the United States unless it shall be made to appear that the same is used as such by said owner in commerce among the several States, or between the United States and some foreign nation or Indian tribe; no trade-mark, except as provided by section 3 of the act of May 4, 1906, will be registered to an owner residing in or located in a foreign country unless said country, by treaty, convention, or law, affords similar privileges to the citizens of the United States: no trade-mark will be registered which consists of or comprises immoral or scandalous matter, or which consists of or comprises the flag or coat of arms or other insignia of the United States, or any simulation thereof, or of any State or municipality, or of any foreign nation, or which is identical with a registered or known trade-mark owned and in use by another, and appropriated to merchandise of the same descriptive properties, or which so nearly resembles a registered or known trade-mark owned and in use by another, and appropriated to merchandise of the same descriptive properties, as to be likely to cause confusion or mistake in the mind of the public, or to deceive purchasers; or which consists merely in the name of an individual, firm, corporation, or association, not written, printed, impressed, or woven in some particular or distinctive manner or in association with a portrait of the individual, or merely in words or devices which are descriptive of the goods with which they are used, or of the character or quality of such goods, or merely a geographical name or term: no portrait of a living individual will be registered as a trade-mark, except by the consent of such individual, evidenced by an instrument in writing: and no trade-mark will be registered which is used in unlawful business, or upon any article injurious in itself, or which has been used with the design of deceiving the public in the purchase of merchandise, or which has been abandoned.

20. Any mark, used in commerce with foreign nations or among the several States or with Indian tribes, may be registered if it has been in actual and exclusive use as a trade-mark of the applicant, or his predecessors from whom he de-

rived title, for ten years next preceding the passage of the act of February 20, 1905. (See Rule 32.)

#### THE APPLICATION.

21. An application for the registration of a trade-mark must be made to the Commissioner of Patents and must be signed by the applicant.

22. A complete application comprises:

(a) A petition, requesting registration, signed by the applicant. (See Form 1.)

(b) A statement specifying the name, domicile, location, and citizenship of the party applying: the class of merchandise, and the particular description of goods comprised in such class, to which the trade-mark is appropriated: a description of the trade-mark itself, only when needed to express colors not shown in the drawing: and a statement of the mode in which the same is applied and affixed to the goods, and of the length of time during which the trade-mark has been used, and, if the applicant be a corporation or association, it must be set forth under the laws of what State or nation organized. (See sec. 29 of the act of February 20, 1905, and Forms 2, 4, 6, and 10.)

(c) A declaration complying with section 2 of the act of February 20, 1905. (See Forms 3, 5, 7, 8, 9, and 11.)

(d) A drawing of the trade-mark, which shall be a facsimile of the same as actually used upon the goods. (See Rules 36 and 37.)

(e) Five specimens (*or facsimiles, when, from the mode of applying or affixing the trade-mark to the goods, specimens cannot be furnished*) of the trade-mark as actually used upon the goods.

(f) A fee of ten dollars.

23. The petition, the statement, and the declaration must be in the English language and written on one side of the paper only.

24. The name of the applicant will appear in the certificate of registration precisely as it is signed to the statement of the application, and, therefore, the signature to the statement must be the correct signature of the applicant, and the name of the applicant wherever it appears in the papers of the applica-

tion will be made to agree with the name as signed to the statement.

25. No information will be given, without authority of the applicant, respecting the filing of an application for the registration of a trade-mark by any person, or the subject-matter thereof, unless it shall, in the opinion of the Commissioner, be necessary to the proper conduct of business before the Office.

26. All applications for registration pending in the Patent Office at the time of the passage of the act of February 20, 1905, may be amended with a view to bringing them and the certificates issued under such applications under the provisions of said act, and the prosecution of such applications may be proceeded with under its provisions without the payment of further fee. When such an application is amended to bring it under the act of February 20, 1905, it will be given a serial number and a date of filing under said act.

A trade-mark, registered under the act of March 3, 1881, may be registered under the act of February 20, 1905, but the application for such registration will be subject to examination in the same manner as other applications filed under said act of February 20, 1905.

27. An application for registration of a trade-mark, filed in this country by any person who has previously regularly filed in any foreign country which, by treaty, convention, or law, affords similar privileges to the citizens of the United States an application for registration of the same trade-mark shall be accorded the same force and effect as would be accorded to the same application if filed in this country on the date on which application for registration of the same trade-mark was first filed in such foreign country: *Provided*, That such application be filed in this country within four months from the date on which the application was first filed in such foreign country.

28. Every applicant for registration of a trade-mark, or for renewal of registration of a trade-mark, who is not domiciled within the United States, shall, before the issuance of the certificate of registration, designate, by a notice in writing, filed in the Patent Office, some person residing within the United States on whom process or notice of proceedings affecting the right of ownership of the trade-mark of which such appli-

cant may claim to be the owner may be served. This notice shall be indorsed upon the file wrapper of the application.

29. In proceedings relating to an application, or to a registration under the act of February 20, 1905, it shall be deemed sufficient to serve notice upon the applicant, registrant, or representative, by leaving a copy of the process or notice of proceedings addressed to him at the last address of which the Commissioner of Patents has been notified.

30. A trade-mark may, at the option of the applicant, be registered on a single application, for any or all goods comprised in a single class of merchandise, provided the particular description of goods be stated, and provided that the mark has been actually used upon all of the goods specified. (See classification of merchandise.)

31. The application must be accompanied by a written declaration, verified by the applicant, or by a member of the firm, or by an officer of the corporation or association applying, to the effect that he believes himself, or the firm, corporation, or association in whose behalf he makes the declaration, to be the owner of the trade-mark sought to be registered, and that no other person, firm, corporation, or association, to the best of his knowledge and belief, has the right to use the trade-mark, either in the identical form or any such near resemblance thereto as might be calculated to deceive; that such trade-mark is used in commerce among the several States, or with foreign nations, or with Indian tribes; that the drawing truly represents the trade-mark sought to be registered; that the specimens (*or facsimiles*) show the mark as actually used upon the goods; and that the facts set forth in the statement are true. (See Rule 17 and Forms 3, 5, 7, 8, 9, and 11.)

32. Where application is made under section 5 of the act of February 20, 1905, on the ground that the mark has been in actual and exclusive use as a trade-mark by the applicant, or his predecessors from whom he derived title, for ten years next preceding the passage of said act, the applicant shall, in addition to the requirements of section 2 of said act, make oath to such actual use of the mark as a trade-mark by himself, or his predecessors, or by those from whom title to the same is derived, for the period specified, and that, to the best of his

knowledge and belief, such use has been exclusive. (See Form 8.)

33. If the applicant resides or is located in a foreign country, the declaration required, unless the application be presented under the provisions of section 3 of the act of May 4, 1906, shall also set forth that the trade-mark has been registered by the applicant, or that an application for the registration thereof has been filed by him in the foreign country in which he resides or is located, and shall give the date of such registration, or of the application therefor, as the case may be. In such cases, it shall not be necessary to state that the mark has been used in commerce with the United States or among the States thereof.

If the application be presented under the provision of section 3 of the act of May 4, 1906, the declaration, in addition to the requirements of Rule 31, must state that the applicant has a manufacturing establishment within the territory of the United States and that the goods upon which the trade-mark is used are the product of such establishment.

34. The declaration may be made before any person within the United States authorized by law to administer oaths, or, when the applicant resides in a foreign country, before any minister, chargé d'affaires, consul, or commercial agent holding commission under the Government of the United States, or before any notary public, judge, or magistrate having an official seal and authorized to administer oaths in the foreign country in which the applicant may be, whose authority shall be proved by the certificate of a diplomatic or consular officer of the United States, the declaration being attested in all cases, in this and other countries, by the proper official seal of the officer before whom the same is made.

35. Amendment of the declaration will not be permitted. If that filed with the application be faulty or defective, a substitute declaration must be filed.

#### DRAWING.

36. (1) The drawing must be made upon pure white paper of a thickness corresponding to two-sheet Bristol board. The surface of the paper must be calendered and smooth. India

ink alone must be used, to secure perfectly black and solid lines.

(2) The size of a sheet on which a drawing is made must be exactly 10 by 15 inches. One inch from its edges, a single marginal line is to be drawn, leaving the "sight" precisely 8 by 13 inches. Within this margin, all work and signatures must be included. One of the shorter sides of the sheet is regarded as its top, and, measuring downwardly from the marginal line, a space of not less than  $1\frac{1}{4}$  inches is to be left blank for the heading of title, name, number, and date.

(3) All drawings must be made with pen only. Every line and letter, signatures included, must be absolutely black. This direction applies to all lines, however fine, and to shading. All lines must be clean, sharp, and solid, and they must not be too fine or crowded. Surface shading, when used, should be open.

(4) The name of the proprietor of the trade-mark, signed by himself or by his attorney of record, must be placed at the lower right-hand corner of the sheet within the marginal lines, but, in no instance, should it encroach upon the drawing.

(5) When the view is longer than the width of the sheet, the sheet should be turned on its side and the heading should be placed at the right and the signature at the left, occupying the same space and position as in an upright view and being horizontal when the sheet is held in an upright position.

(6) Drawings transmitted to the Office should be sent flat, protected by a sheet of heavy binder's board. They should not be rolled or folded.

(7) An agent's or attorney's stamp, or advertisement, or written address will not be permitted upon the face of a drawing, within or without the marginal line.

37. The Office, at the request of applicants, will furnish the drawings at cost.

#### EXAMINATION OF APPLICATIONS.

38. All complete applications for registration are considered, in the first instance, by the examiner in charge of trademarks. Whenever, on examination of an application, registration is refused for any reason whatever, the applicant will be notified thereof. The reasons for such refusal will be stated,

and such information and references will be given as may be useful in aiding the applicant to judge of the propriety of further prosecuting his application.

39. The examination of an application and the action thereon will be directed throughout to the merits, but, in each letter, the examiner shall state or refer to all his objections.

40. If, on examination of an application for the registration of a trade-mark, it shall appear that the applicant is entitled to have his trade-mark registered under the provisions of the law, the mark will be published in the Official Gazette at least once. Such publication shall be at least thirty days prior to the date of registration.

If no notice of opposition be filed within thirty days after such publication the applicant or his attorney will be duly notified of the allowance of his application, and a certificate of registration will be issued as provided in Rule 58.

The weekly issue closes on Thursday, and the certificates of registration of that issue bear date as of the third Tuesday thereafter.

#### AMENDMENTS.

41. The statement may be amended to correct informalities, or to avoid objections made by the Office, or for other reasons arising in the course of examination, but no amendments to the description or drawing of the trade-mark will be permitted unless warranted by something in the specimens (*or facsimiles*) as originally filed.

42. In every amendment, the exact word or words to be stricken out or inserted in the statement must be specified, and the precise point indicated where the erasure or insertion is to be made. All such amendments must be on sheets of paper separate from the papers previously filed, and written on but one side of the paper.

Erasures, additions, insertions, or mutilations of the papers and records must not be made by the applicant or attorney.

43. When an amendatory clause is amended, it must be wholly rewritten, so that no interlineation or erasure shall appear in the clause, as finally amended, when the application is passed to issue. If the number or nature of the amendments shall render it otherwise difficult to consider the case, or to

arrange the papers for printing or copying, the examiner may require the entire statement to be rewritten.

44. After allowance, the examiner will exercise jurisdiction over an application only by special authority from the Commissioner.

Amendments may be made after the allowance of an application, if the case has not been printed, on the recommendation of the examiner, approved by the Commissioner, without withdrawing the case from issue.

45. After the completion of the application, the Office will not return the papers for any purpose whatever. If the applicant has not preserved copies of the papers which he wishes to amend, the Office will furnish them on the usual terms.

#### INTERFERENCE, OPPOSITION, AND CANCELLATION.

46. Whenever application is made for the registration of a trade-mark which is substantially identical with a trade-mark appropriated to goods of the same descriptive properties, for which a certificate of registration has been previously issued to another, or for registration of which another had previously made application, or which so nearly resembles such trade-mark, or a known trade-mark owned and used by another, as, in the opinion of the Commissioner, to be likely to be mistaken therefor by the public, an interference will be declared.

The practice in trade-mark interferences will follow, as nearly as practicable, the practice in interferences between applications for patents.

47. Before the declaration of interference, all preliminary questions must have been settled by the examiner in charge of trade-marks, and the trade-mark which is to form the subject-matter of the controversy must have been decided to be registrable, and must have been published at least once in the Official Gazette of the Patent Office.

Whenever two or more applicants are found to be claiming the same registrable trade-mark, the examiner of trade-marks, when the application of one of the applicants is ready for publication, may require the other applicants to put their applications in condition for the publication within a time specified, in order that an interference may be declared. If any party

fail to put his application in condition for publication within such time specified, the declaration of interference will not be delayed, but, after judgment of priority, the application of such party will be held for revision and restriction, subject to interference with other applications or registered trademarks.

48. The examiner in charge of interferences may, either before or in his decision on the question of priority, direct the attention of the Commissioner to any matter not relating to priority which may have come to his notice, and which, in his opinion, establishes the fact that no interference exists, or that there has been such irregularity in declaring the same as will preclude a proper determination of the question of priority, or which amounts to a statutory bar to registration of the mark to any or all of the parties to the interference. The Commissioner may, before judgment on the question of priority, suspend the interference and remand the same to the examiner of trademarks for his consideration of the matters to which attention has been directed. If the case be not so remanded, the examiner in charge of trade-marks will, after judgment, consider any matter affecting the rights of either party to registration which may have been brought to his attention, unless the same shall have been previously disposed of by the Commissioner. From the decision of the examiner of trade-marks, appeals may be taken, as in other cases.

49. Motions to dissolve an interference upon the ground that no interference in fact exists, or that there has been such irregularity in declaring the same as will preclude a proper determination of the question of priority, or which deny the registrability of an applicant's mark, should, if possible, be made not later than the twentieth day after the notices of the interference have been mailed. Such motions, and all motions of a similar character, should be accompanied by a motion to transmit the same to the examiner in charge of trade-marks, and such motion to transmit will be noticed for hearing upon a day certain before the examiner in charge of interferences. When in proper form, the motion presented will, with the files and papers, be transmitted, by the examiner in charge of interferences, for determination, to the examiner in charge of trade-marks, who will thereupon fix a day certain when said mo-

tion will be heard before him upon the merits, and give notice thereof to all the parties. If a stay of proceedings be desired, a motion therefor should accompany the motion for transmission.

Motions to shift the burden of proof should be made before, and will be determined by, the examiner in charge of interferences. No appeal from the decision on such motion will be entertained, but the matter may be reviewed on appeal from the final decision upon the question of priority.

50. The decision of the examiner in charge of trade-marks, upon a motion for dissolution, will be binding upon the examiner in charge of interferences unless reversed or modified on appeal. Unless appeal be taken within the time limited for appeal, the examiner in charge of trade-marks will return the files and papers with his decision to the examiner in charge of interferences.

51. Any person who believes he would be damaged by the registration of a mark may oppose the same by filing, in duplicate, a written notice of opposition (see Form 12), stating the grounds therefor, within thirty days after the publication (see Rule 40) of the mark sought to be registered, which notice of opposition shall be accompanied by the fee required by law, and shall be verified by the person filing the same, before one of the officers mentioned in section 2 of the act of February, 20, 1905. (See Rule 34.)

52. Any person, deeming himself to be injured by the registration of a trade-mark in the Patent Office, may, at any time, make application (see Form 13), to the Commissioner to cancel the registration thereof. Such application shall be filed in duplicate, shall state the grounds for cancellation, and shall be verified by the person filing the same, before one of the officers mentioned in section 2 of the act of February 20, 1905. (See Rule 34.)

53. If it shall appear, after a hearing before the examiner of interferences, that the registrant was not entitled to the use of the mark at the date of his application for registration thereof, or that the mark is not used by the registrant, or has been abandoned, and the examiner in charge of interferences shall so decide, the Commissioner shall cancel the registration of the mark, unless appeal be taken within the limit fixed.

54. In cases of opposition, and of applications for cancellation, the examiner in charge of trade-marks shall forward the files and papers to the examiner in charge of interferences, who shall give notice thereof to the applicant or registrant. The applicant or registrant must make answer at such time, not less than thirty days from the date of the notice, as shall be fixed by the examiner in charge of interferences.

55. The proceedings, on oppositions, and on applications for cancellation, shall follow, as nearly as practicable, the practice, in interferences between applications for patents.

#### APPEALS.

56. From an adverse decision of the examiner in charge of trade-marks upon an applicant's right to register a trade-mark or to renew the registration of a trade-mark, or from a decision of the examiner in charge of interferences, an appeal may be taken to the Commissioner in person, upon payment of the fee required by law.

57. From the adverse decision of the Commissioner of Patents upon the right of an applicant to register a trade-mark, or to renew the registration of a trade-mark, or from the decision of the Commissioner in cases of interference, opposition, or cancellation, an appeal may be taken to the Court of Appeals of the District of Columbia in the manner prescribed by the rules of that court.

#### ISSUE, DATE AND DURATION OF CERTIFICATES.

58. When the requirements of the law and of the rules have been complied with, and the Office has adjudged a trade-mark registrable, a certificate will be issued, signed by the Commissioner, under the seal of the Patent Office, to the effect that the applicant has complied with the law and that he is entitled to registration of his trade-mark. The certificate shall state the date on which the application for registration was received in the Patent Office. Attached to the certificate will be a photolithographed copy of the drawing of the trade-mark and a printed copy of the statement and of the declaration.

59. A certificate of registration shall remain in force twenty years from its date, except that, in case a trade-mark be pre-

viously registered in a foreign country, such certificate shall cease to be in force on the day on which the trade-mark ceases to be protected in such foreign country, and shall, in no case, remain in force more than twenty years, unless renewed.

60. A certificate of registration may be, from time to time, renewed for like periods on payment of the renewal fees required, upon request by the registrant, his legal representatives or transferees of record in the Patent Office, and such request may be made at any time not more than six months prior to the expiration of the period for which the certificate of registration was issued or renewed.

61. Certificates of registration in force on the 1st day of April, 1905, shall remain in force for the periods for which they were issued, and shall be renewable on the same conditions and for the same periods as certificates issued under the provisions of the act of February 20, 1905, and, when so renewed, shall have the same force and effect as certificates issued thereunder.

62. A certificate of registration shall not be issued to an applicant located in a foreign country for any trade-mark, for registration of which he has filed an application in such foreign country, until such mark has been actually registered by him in the country in which he is located.

#### ASSIGNMENTS.

63. Every registered trade-mark and every mark for the registration of which application has been made, together with the application for registration thereof, shall be assignable in connection with the good-will of the business in which the mark is used. Such assignment must be by an instrument in writing and duly acknowledged according to the laws of the country or State in which the same is executed. Provision is made for recording such assignments in the Patent Office; but no such assignment will be recorded unless it is in the English language, nor unless an application for the registration of the mark shall have been first filed in the Patent Office, and such assignment must identify the application by serial number and date of filing, or, when the mark has been registered, by the certificate number and the date thereof. No particular form of assignment is prescribed.

64. An assignment shall be void as against any subsequent purchaser for a valuable consideration, without notice, unless it be recorded in the Patent Office within three months from the date thereof.

65. The certificate of registration may be issued to the assignee of the applicant, but the assignment must first be entered of record in the Patent Office.

#### COPIES AND PUBLICATIONS.

66. After a trade-mark has been registered, printed copies of the statement and declaration in each case, with a photolithographed copy of the drawing of the trade-mark, may be furnished by the Office upon the payment of the fee. (See Rule 69.)

67. An order for a copy of an assignment must give the liber and page of the record, as well as the name of the applicant; otherwise an extra charge will be made for the time consumed in making a search for such assignment.

68. The Official Gazette of the Patent Office will contain a list of all trade-marks registered, giving, in each case, a statement of the goods to which the trade-mark is applied, the name and address of the applicant, the date of filing and serial number of the application, and the date of the publication of the trade-mark in the Official Gazette.

#### FEES.

|   |         |
|---|---------|
| 69. On filing each original application for the registration of a trade-mark.....   | \$10.00 |
| On filing each application for renewal of the registration of a trade-mark.....   | 10.00   |
| On filing notice of opposition to the registration of a trade-mark .....  | 10.00   |
| On appeal from the examiner in charge of trade-marks to the Commissioner of Patents.....  | 15.00   |
| On appeal from the decision of the examiner in charge of interferences, awarding ownership of a trade-mark or canceling the registration of a trade-mark, to the Commissioner of Patents..... | 15.00   |
| For manuscript copies, for every 100 words or fraction thereof.....   | .10     |

For recording every assignment, agreement, power of attorney, or other paper, of 300 words or less..... 1.00

For recording every assignment, agreement, power of attorney, or other paper of more than 300 words, and less than 1,000 words..... 2.00

For recording every assignment, agreement, power of attorney, or other paper of more than 1,000 words..... 3.00

For abstracts of title:

For the certificate of search..... 1.00

For each brief from the digest of assignments..... .20

For searching titles or records, one hour or less..... .50

Each additional hour or fraction thereof..... .50

For a single printed copy of statement, declaration and drawing..... .05

If certified, for the grant, additional..... .50

For the certificate..... .25

70. Money required for office fees may be paid to the Commissioner of Patents, or to the Treasurer, or to any of the assistant treasurers of the United States, or to any of the depositaries, national banks, or receivers of public money, designated by the Secretary of the Treasury for that purpose, and such officer shall give the depositor a receipt or certificate of deposit therefor, which shall be transmitted to the Patent Office. When this cannot be done without inconvenience, the money may be remitted by mail, and, in every such case, the letter should state the exact amount inclosed. All money-orders, drafts, and checks should be made payable to the "Commissioner of Patents."

71. All money sent by mail to the Patent Office will be at the risk of the sender. All payments to the Office must be made in specie, Treasury notes, national-bank notes, certificates of deposit, money orders, or certified checks.

#### REPAYMENT OF MONEY.

72. Money paid by actual mistake, such as a payment in excess, or when not required by law, or by neglect or misinformation on the part of the Office, will be refunded; but a mere change of purpose after the payment of money, as when a party desires to withdraw his application for the registration of a

trade-mark, or to withdraw an appeal, will not entitle a party to demand such a return.

NOTICE OF REGISTRATION.

73. It shall be the duty of the registrant to give notice to the public that a trade-mark is registered, either by affixing thereon the words "Registered in U. S. Patent Office," or "Reg. U. S. Pat. Off.," or, when from the character and size of the trade-mark, or from its manner of attachment to the article to which it is appropriated, this cannot be done, then by affixing a label containing a like notice to the package or receptacle wherein the article or articles are inclosed; otherwise, on a suit for infringement, no damages shall be recovered except on proof that the defendant was duly notified of infringement, and continued the same after such notice.

AMENDMENTS OF THE RULES.

74. All amendments of the foregoing rules will be published in the Official Gazette.

QUESTIONS NOT SPECIFICALLY PROVIDED FOR.

75. All cases not specifically defined and provided for in these rules will be decided in accordance with the merits of each case under the authority of the Commissioner, and such decision will be communicated to the interested parties in writing.

FREDERICK I. ALLEN,  
*Commissioner of Patents.*

DEPARTMENT OF THE INTERIOR.

Approved, November 16, 1905.

E. A. HITCHCOCK,  
*Secretary.*

CLASSIFICATION OF MERCHANDISE UNDER THE ACT  
OF MAY 4, 1906.

GROUP 1.—RAW MATERIALS.

1. Animal.
2. Mineral.
3. Vegetable.

## GROUP 2.—MANUFACTURED MATERIALS.

4. Abrasive and polishing materials not included in classes 8 and 16.
5. Adhesives.
6. Chemicals not otherwise classified.
7. Cordage not included in class 13.
8. Detergents.
9. Explosives.
10. Fertilizers.
11. Leather blackings and dressings.
12. Masonry materials.
13. Metal manufactures not otherwise classified.
14. Metals, unwrought and partly wrought.
15. Oils and greases not included in classes 6, 16, and 50.
16. Paints and painters' materials.
17. Wood manufactures not otherwise classified.

## GROUP 3.—TOOLS, MACHINERY AND VEHICLES.

18. Agricultural and dairy machinery and parts of such machinery.
19. Boats and road vehicles.
20. Cutlery not included in class 61, and edge tools.
21. Electrical apparatus, machines, and supplies.
22. Firearms, and equipments and projectiles not otherwise classified.
23. Hand tools not otherwise classified.
24. Laundry appliances and machines.
25. Locks and safes.
26. Machinery and parts of machinery not otherwise classified.
27. Railway equipment not otherwise classified, and railway rolling stock.
28. Sewing machines and attachments.

## GROUP 4.—FURNITURE AND HOUSEHOLD ARTICLES.

29. Brooms, brushes, and dusters.
30. Crockery, earthenware, and porcelain.
31. Filters and refrigerators.
32. Furniture and upholstery not otherwise classified.
33. Glassware not otherwise classified.

34. Heating, lighting, and ventilating apparatus not included in class 21.

GROUP 5.—LEATHER, PAPER, AND RUBBER GOODS.

35. Belting, hose, and machinery packing.  
36. Leather and leather manufactures not otherwise classified.  
37. Paper and paper manufactures not otherwise classified.  
38. Rubber and minor plastics not otherwise classified.

GROUP 6.—DRY GOODS AND CLOTHING.

39. Clothing not otherwise classified.  
40. Fancy goods, furnishings, and notions.  
41. Knitted, netted, and lace goods.  
42. Textiles not otherwise classified.  
43. Thread and yarn.

GROUP 7.—FOODS.

44. Bakery products, cereal foods and yeast.  
45. Beverages, nonalcoholic.  
46. Coffee, tea, and substitutes.  
47. Confectionery.  
48. Dairy products.  
49. Distilled alcoholic liquors.  
50. Foods not otherwise classified.  
51. Malt liquors.  
52. Packing-house products.  
53. Saccharine foods not included in class 47.  
54. Sea foods.  
55. Wines.

GROUP 8.—MISCELLANEOUS.

56. Canes, parasols, and umbrellas.  
57. Dental machines, apparatus, and supplies.  
58. Games and toys, and sporting goods not otherwise classified.  
59. Horological instruments.  
60. Inks and inking materials.  
61. Jewelry, and solid and plated precious-metal ware.  
62. Linoleum and oiled cloth.

63. Measuring and scientific apparatus, appliances, and instruments.
64. Medical and surgical apparatus, appliances, and instruments.
65. Musical instruments and talking-machines and supplies therefor.
66. Objects of art and ornament.
67. Pharmaceutical preparations, plasters, and proprietary and veterinary medicines.
68. Publications.
69. Smokers' articles not included in class 71.
70. Stationery not otherwise classified.
71. Tobacco products.
72. Merchandise not otherwise classified.

F. I. ALLEN,  
*Commissioner.*

#### APPENDIX.

[1905—Department Circular No. 40—Division of Customs.]

TREASURY DEPARTMENT,  
OFFICE OF THE SECRETARY,  
*Washington, March 21, 1905.*

*To collectors of customs and others concerned:*

The attention of officers of the customs and others is invited to the following provisions of section 27 of the act approved February 20, 1905, effective April 1, 1905:

“SECTION 27. That no article of imported merchandise which shall copy or simulate the name of any domestic manufacture, or manufacturer or trader, or of any manufacturer or trader located in any foreign country which, by treaty, convention, or law affords similar privileges to citizens of the United States, or which shall copy or simulate a trade-mark registered in accordance with the provisions of this act, or shall bear a name or mark calculated to induce the public to believe that the article is manufactured in the United States, or that it is manufactured in any foreign country or locality other than the country or locality in which it is in fact manufactured, shall be admitted to entry at any custom-house of the United States; and, in order to aid the officers of the customs in enforcing this prohibition, any domestic manufacturer or trader, and any

foreign manufacturer or trader, who is entitled under the provisions of a treaty, convention, declaration, or agreement between the United States and any foreign country to the advantages afforded by law to citizens of the United States in respect to trade-marks and commercial names, may require his name and residence, and the name of the locality in which his goods are manufactured, and a copy of the certificate of registration of his trade-mark, issued in accordance with the provisions of this act, to be recorded in books which shall be kept for this purpose in the Department of the Treasury, under such regulations as the Secretary of the Treasury shall prescribe, and may furnish to the Department facsimiles of his name, the name of the locality in which his goods are manufactured, or of his registered trade-mark; and thereupon the Secretary of the Treasury shall cause one or more copies of the same to be transmitted to each collector or other proper officer of customs."

The provisions of this section give to manufacturers and traders located in foreign countries which, by treaty stipulations, give similar privileges to the United States, the same advantages as are given to domestic manufacturers and traders. The act does not affect names or trade-marks heretofore recorded in the Treasury Department, and as to them the protection granted so far as concerns prohibition of importation will continue. Nor does the act appear to make it compulsory on the part of domestic manufacturers or traders, or foreign manufacturers or traders, to register names (not trade-marks) with the Commissioner of Patents, in order to prevent illegal importations.

Domestic manufacturers and traders, and foreign manufacturers and traders, to avail themselves of the privileges of the act, so far as concerns trade-marks, are required to register their trade-marks with the Commissioner of Patents before the Treasury Department can act.

Applications for recording the names and trade-marks in this Department under section 27 will state the name of the owner, his residence, and the locality in which his goods are manufactured, and in the case of trade-marks should be accompanied with a certified copy of the certificate of registration of his trade-mark issued in accordance with the provisions of the act and

the names of the ports to which facsimiles should be sent. In the case of the name of a domestic manufacture, manufacturer, or trader (not registered as a trade-mark in the Patent Office) the application must be accompanied by the proper proof of ownership and proof as to the country or locality in which his goods are manufactured, which must consist of the affidavit of the owner or one of the owners, certified by an officer entitled to administer oaths and having a seal.

On the receipt by a customs officer of any such facsimiles, with information from the Department that they have been recorded therein, he will properly record and file them and will exercise care to prevent the entry at the custom-house of any article of foreign manufacture copying or simulating such mark.

No fees are charged for recording trade-marks in the Treasury Department and custom-houses.

A sufficient number of facsimiles should be forwarded to enable the Department to send one copy to each port named in the application, with ten additional copies for the files of the Department.

Especial attention is invited to the provision in said section prohibiting the entry of articles "which shall bear a name or mark calculated to induce the public to believe that the article is manufactured in the United States, or that it is manufactured in any foreign country or locality other than the country or locality in which it is in fact manufactured," and collectors and other officers of the customs are instructed to use due diligence to prevent violations of this provision.

The provisions of the act also apply to Porto Rico, the Philippine Islands, Hawaii, and any other territory under the jurisdiction and control of the United States.

LESLIE M. SHAW, *Secretary.*

AN ACT to incorporate the American National Red Cross.

\* \* \* \* \*

SEC. 4. That from and after the passage of this Act it shall be unlawful for any person within the jurisdiction of the United States to falsely and fraudulently hold himself out as, or represent or pretend himself to be, a member of, or an agent for, the American National Red Cross, for the purpose of soliciting, collecting, or receiving money or material; or for any person to

wear or display the sign of the Red Cross, or any insignia colored in imitation thereof for the fraudulent purpose of inducing the belief that he is a member of, or an agent for, the American National Red Cross. Nor shall it be lawful for any person or corporation, other than the Red Cross of America, not now lawfully entitled to use the sign of the Red Cross, hereafter to use such sign or any insignia colored in imitation thereof for the purposes of trade or as an advertisement to induce the sale of any article whatsoever. If any person violates the provisions of this section, he shall be guilty of a misdemeanor and shall be liable to a fine of not less than one nor more than five hundred dollars, or imprisonment for a term not exceeding one year, or both, for each and every offense. The fine so collected shall be paid to the American National Red Cross.

\* \* \* \* \*

Approved, January 5, 1905.

#### THE COPYRIGHT LAW OF THE UNITED STATES.

SECTION 4948. All records and other things relating to copyrights and required by law to be preserved, shall be under the control of the Librarian of Congress, and kept and preserved in the Library of Congress.

The Appropriation Act approved February 19, 1897, provides for the appointment of a "*Register of Copyrights, who shall, on and after July first, eighteen hundred and ninety-seven, under the direction and supervision of the Librarian of Congress, perform all the duties relating to copyrights, and shall make weekly deposits with the Secretary of the Treasury, and make monthly reports to the Secretary of the Treasury and to the Librarian of Congress, and shall, on and after July first, eighteen hundred and ninety-seven, give bond to the Librarian of Congress in the sum of twenty thousand dollars, with approved sureties, for the faithful discharge of his duties.*"

SEC. 4949. The seal provided for the office of the Librarian of Congress shall be the seal thereof, and by it all records and papers issued from the office, and to be used in evidence shall be authenticated.

SEC. 4950. The Appropriation Act approved February 19, 1897, provides: "*The Librarian of Congress shall on and aft-*

*er July first, eighteen hundred and ninety-seven, give bond, payable to the United States, in the sum of twenty thousand dollars, with sureties approved by the Secretary of the Treasury, for the faithful discharge of his duties according to law."*

SEC. 4951. The Librarian of Congress shall make an annual report to Congress of the number and description of copyright publications for which entries have been made during the year.

SEC. 4952. The author, inventor, designer, or proprietor of any book, map, chart, dramatic or musical composition, engraving, cut, print or photograph or negative thereof, or of a painting, drawing, chromo, statue, statuary and of models or designs intended to be perfected as works of the fine arts, and the executors, administrators, or assigns of any such person shall, upon complying with the provisions of this chapter, have the sole liberty of printing, reprinting, publishing, completing, copying, executing, finishing, and vending the same; and, in the case of a dramatic composition, of publicly performing or representing it, or causing it to be performed or represented by others. *And authors or their assigns shall have exclusive right to dramatize or translate any of their works, for which copyright shall have been obtained under the laws of the United States.*

*In the construction of this act the words "engraving," "cut," and "print," shall be applied only to pictorial illustrations or works connected with the fine arts, and no prints or labels designed to be used for any other articles of manufacture shall be entered under the copyright law, but may be registered in the Patent Office. And the Commissioner of Patents is hereby charged with the supervision and control of the entry or registry of such prints or labels, in conformity with the regulations provided by law as to copyright of prints, except that there shall be paid for recording the title of any print or label, not a trade-mark, six dollars, which shall cover the expense of furnishing a copy of the record, under the seal of the Commissioner of Patents, to the party entering the same.*

SEC. 4953. Copyrights shall be granted for the term of twenty-eight years from the time of recording the title thereof, in the manner hereinafter directed.

SEC. 4954. The author, inventor, or designer, if he be still living, or his widow or children, if he be dead, shall have the

same exclusive right continued for the further term of fourteen years, upon recording the title of the work or description of the article so secured a second time, and complying with all other regulations in regard to original copyrights, within six months before the expiration of the first term. And such person shall, within two months from the date of said renewal, cause a copy of the record thereof to be published in one or more newspapers, printed in the United States, for the space of four weeks.

SEC. 4955. Copyrights shall be assignable in law by any instrument of writing and such assignment shall be recorded in the office of the Librarian of Congress within sixty days after its execution; in default of which it shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice.

SEC. 4956. No person shall be entitled to a copyright unless he shall, *on or before the day of publication, in this or any foreign country*, deliver at the office of the Librarian of Congress, or deposit in the mail *within the United States*, addressed to the Librarian of Congress, at Washington, District of Columbia, a printed copy of the title of the book, *map, chart, dramatic or musical composition, engraving, cut, print, photograph, or chromo*, or a description of the painting, drawing, statue, statuary, or a model or design, for a work of the fine arts, for which he desires a copyright; nor unless he shall also, *not later than the day of the publication thereof, in this or any foreign country*, deliver at the office of the Librarian of Congress, *at Washington, District of Columbia*, or deposit in the mail, *within the United States*, addressed to the Librarian of Congress, at Washington, District of Columbia, two copies of such copyright book, *map, chart, dramatic or musical composition, engraving, chromo, cut, print, or photograph*, or in case of a painting drawing, statue, statuary, model, or design for a work of the fine arts, a photograph of the same: *Provided, That in the case of a book, photograph, chromo, or lithograph, the two copies of the same required to be delivered or deposited as above, shall be printed from type set within the limits of the United States, or from plates made therefrom, or from negatives, or drawings on stone made within the limits of the United States, or from transfers made therefrom. Dur-*

*ing the existence of such copyright the importation into the United States of any book, chromo, lithograph, or photograph, so copyrighted, or any edition or editions thereof, or any plates of the same not made from type set, negatives, or drawings on stone made within the limits of the United States, shall be, and is hereby prohibited, except in the cases specified in paragraphs 512 to 516, inclusive, in section two of the act entitled, an act to reduce the revenue and equalize the duties on imports and for other purposes, approved October 1, 1890; and except in the case of persons purchasing for use and not for sale, who import subject to the duty thereon, not more than two copies of such book at any one time; and, except in the case of newspapers and magazines, not containing in whole or in part matter copyrighted under the provisions of this act, unauthorized by the author, which are hereby exempted from prohibition of importation.*

*Provided, nevertheless, That in the case of books in foreign languages, of which only translations in English are copyrighted, the prohibition of importation shall apply only to the translation of the same, and the importation of the books in the original language shall be permitted.*

SEC. 4957. The Librarian of Congress shall record the name of such copyright book, or other article, forthwith in a book to be kept for that purpose, in the words following: "Library of Congress, to wit: Be it remembered that on the      day of      A. B., of      hath deposited in this office the title of a book (map, chart, or otherwise, as the case may be, or description of the article), the title or description of which is in the following words, to wit: (here insert the title or description,) the right whereof he claims as author, (originator, or proprietor, as the case may be,) in conformity with the laws of the United States respecting copyrights. C. D., Librarian of Congress." And he shall give a copy of the title or description under the seal of the Librarian of Congress, to the proprietor, whenever he shall require it.

SEC. 4958. The Librarian of Congress shall receive from the persons to whom the services designated are rendered, the following fees. 1. For recording the title or description of any copyright book or other article, fifty cents. 2. For every copy under seal of such record actually given to the person

claiming the copyright, or his assigns, fifty cents. [3. *For recording and certifying any instrument of writing for the assignment of a copyright, one dollar.* 4. *For every copy of an assignment, one dollar.*] All fees so received shall be paid into the treasury of the United States: *Provided, That the charge for recording the title or description of any article entered for copyright, the production of a person not a citizen or resident of the United States, shall be one dollar, to be paid as above into the treasury of the United States, to defray the expenses of lists of copyrighted articles as hereinafter provided for.*

*And it is hereby made the duty of the Librarian of Congress to furnish to the Secretary of the Treasury copies of the entries of titles of all books and other articles wherein the copyright has been completed by the deposit of two copies of such book printed from type set within the limits of the United States, in accordance with the provisions of this act, and by the deposit of two copies of such other article made or produced in the United States; and the Secretary of Treasury is hereby directed to prepare and print, at intervals of not more than a week, catalogues of such title-entries for distribution to the collectors of customs of the United States and to the post-masters of all post offices receiving foreign mails, and such weekly lists, as they are issued, shall be furnished to all parties desiring them, at a sum not exceeding five dollars per annum; and the Secretary and the Postmaster General are hereby empowered and required to make and enforce such rules and regulations as shall prevent the importation into the United States, except upon the conditions above specified, of all articles prohibited by this act.*

SEC. 4959. The proprietor of every copyright book or other article shall deliver at the office of the Librarian of Congress, or deposit in the mail, addressed to the Librarian of Congress, at Washington, District of Columbia, a copy of every subsequent edition wherein any substantial changes shall be made: *Provided, however, That the alterations, revisions, and additions made to books by foreign authors, heretofore published, of which new editions shall appear subsequently to the taking effect of this act, shall be held and deemed capable of being copyrighted as above provided for in this act, unless they form*

*a part of the series in course of publication at the time this act shall take effect.*

SEC. 4960. For every failure on the part of the proprietor of any copyright to deliver, or deposit in the mail, either of the published copies, or description, or photograph, required by sections 4956 and 4959, the proprietor of the copyright shall be liable to a penalty of twenty-five dollars, to be recovered by the Librarian of Congress, in the name of the United States, in an action in the nature of an action of debt, in any district court of the United States within the jurisdiction of which the delinquent may reside or be found.

SEC. 4961. The postmaster to whom such copyright book, title, or other article is delivered, shall, if requested, give a receipt therefor; and when so delivered he shall mail it to its destination.

SEC. 4962. *No person shall maintain an action for the infringement of his copyright unless he shall give notice thereof by inserting in the several copies of every edition published, on the title-page, or the page immediately following, if it be a book; or if a map, chart, musical composition, print, cut, engraving, photograph, painting, drawing, chromo, statue, statuary or model or design intended to be perfected and completed as a work of the fine arts, by inscribing upon some visible portion thereof, or of the substance on which the same shall be mounted, the following words, viz: "Entered according to act of Congress, in the year ----, by A. B., in the office of the Librarian of Congress, at Washington;" or, at his option, the word "Copyright," together with the year the copyright was entered, and the name of the party by whom it was taken out, thus: "Copyright, 18--, by A. B."*

*That manufacturers of designs for molded decorative articles, tiles, plaques, or articles of pottery or metal subject to copyright may put the copyright mark prescribed by section forty-nine hundred and sixty-two of the Revised Statutes, and acts additional thereto, upon the back or bottom of such articles, or in such other place upon them as it has heretofore been usual for manufacturers of such articles to employ for the placing of manufacturers, merchants, and trade-marks thereon.*

SEC. 4963. *Every person who shall insert or impress such*

*notice, or words of the same purport, in or upon any book, map, chart, dramatic or musical composition, print, cut, engraving or photograph, or other article, whether such article be subject to copyright or otherwise, for which he has not obtained a copyright, or shall knowingly issue or sell any article bearing a notice of United States copyright which has not been copyrighted in this country; or shall import any book, photograph, chromo, or lithograph or other article bearing such notice of copyright or words of the same purport, which is not copyrighted in this country, shall be liable to a penalty of one hundred dollars, recoverable one-half for the person who shall sue for such penalty and one-half to the use of the United States; and the importation into the United States of any book, chromo, lithograph, or photograph, or other article bearing such notice of copyright, when there is no existing copyright thereon in the United States, is prohibited; and the circuit courts of the United States sitting in equity are hereby authorized to enjoin the issuing, publishing, or selling of any article marked or imported in violation of the United States copyright laws, at the suit of any person complaining of such violation: Provided, That this Act shall not apply to any importation of or sale of such goods or articles brought into the United States prior to the passage hereof."*

SEC. 4964. *Every person who, after the recording of the title of any book and the depositing of two copies of such book as provided by this act, shall, contrary to the provisions of this act, within the term limited, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, print, publish, dramatize, translate, or import, or, knowing the same to be so printed, published, dramatized, translated, or imported, shall sell or expose to sale any copy of such book, shall forfeit every copy thereof to such proprietor, and shall also forfeit and pay such damages as may be recovered in a civil action by such proprietor in any court of competent jurisdiction.*

SEC. 4965. *If any person, after the recording of the title of any map, chart, dramatic or musical composition, print, cut, engraving, or photograph, or chromo, or of the description of any painting, drawing, statue, statuary, or model or design intended to be perfected and executed as a work of fine arts, as*

provided by this act, shall, within the term limited, contrary to the provisions of this act, and without the consent of the proprietor of the copyright first obtained in writing, signed in presence of two or more witnesses, engrave, etch, work, copy, print, publish, dramatize, translate, or import, either in whole or in part, or by varying the main design, with intent to evade the law, or, knowing the same to be so printed, published, dramatized, translated, or imported, shall sell or expose to sale any copy of such map or other article, as aforesaid, he shall forfeit to the proprietor all the plates on which the same shall be copied, and every sheet thereof, either copied or printed, and shall further forfeit one dollar for every sheet of the same found in his possession, either printing, printed, copied, published, imported, or exposed for sale; and in case of a painting, statue, or statuary, he shall forfeit ten dollars for every copy of the same in his possession, or by him sold or exposed for sale: Provided, however, That in case of any such infringement of the copyright of a photograph made from any object not a work of fine arts, the sum to be recovered in any action brought under the provisions of this section shall be not less than one hundred dollars, nor more than five thousand dollars, and: Provided, further, That in case of any such infringement of the copyright of a painting, drawing, statue, engraving, etching, print, or model or design for a work of the fine arts, or of a photograph of a work of the fine arts, the sum to be recovered in any action brought through the provisions of this section shall be not less than two hundred and fifty dollars, and not more than ten thousand dollars. One-half of all the foregoing penalties shall go to the proprietors of the copyright and the other half to the use of the United States.

SEC. 4966. Any person publicly performing or representing any dramatic or musical composition for which a copyright has been obtained, without the consent of the proprietor of said dramatic or musical composition, or his heirs or assigns, shall be liable for damages therefor, such damages in all cases to be assessed at such sum, not less than one hundred dollars for the first and fifty dollars for every subsequent performance, as to the court shall appear to be just. If the unlawful performance and representation be willful and for profit, such person or persons shall be guilty of a misdemeanor and upon conviction

*be imprisoned for a period not exceeding one year. Any injunction that may be granted upon hearing after notice to the defendant by any circuit court of the United States, or by a judge thereof, restraining and enjoining the performance or representation of any such dramatic or musical composition may be served on the parties against whom such injunction may be granted anywhere in the United States, and shall be operative and may be enforced by proceedings to punish for contempt or otherwise by any other circuit court or judge in the United States; but the defendants in said action, or any or either of them, may make a motion in any other circuit in which he or they may be engaged in performing or representing said dramatic or musical composition to dissolve or set aside the said injunction upon such reasonable notice to the plaintiff as the circuit court or the judge before whom said motion shall be made shall deem proper; service of said motion to be made on the plaintiff in person or on his attorneys in the action. The circuit courts or judges thereof shall have jurisdiction to enforce said injunction and to hear and determine a motion to dissolve the same, as herein provided, as fully as if the action were pending or brought in the circuit in which said motion is made.*

*The clerk of the court, or judge granting the injunction, shall, when required so to do by the court hearing the application to dissolve or enforce said injunction, transmit without delay to said court a certified copy of all the papers on which the said injunction was granted that are on file in his office.*

SEC. 4967. Every person who shall print or publish any manuscript whatever, without the consent of the author or proprietor first obtained, shall be liable to the author or proprietor for all damages occasioned by such injury.

SEC. 4968. No action shall be maintained in any case of forfeiture or penalty under the copyright laws, unless the same is commenced within two years after the cause of action has arisen.

SEC. 4969. In all actions arising under the laws respecting copyrights the defendant may plead the general issue, and give the special matter in evidence.

SEC. 4970. The circuit courts, and district courts having the jurisdiction of circuit court, shall have power, upon bill in

equity, filed by any party aggrieved, to grant injunctions to prevent the violation of any right secured by the laws respecting copyrights, according to the course and principles of courts of equity, on such terms as the court may deem reasonable.

The act approved March 3, 1891 (51st Congress, 1st Session, chap. 565: 26 Statutes at Large, pp. 1106-1110), in addition to the amendments, noted above, of sections 4952, 4954, 4956, 4958, 4959, 4963, 4964, 4965, and 4967, provides further as follows:

“That for the purpose of this act each volume of a book in two or more volumes, when such volumes are published separately, and the first one shall not have been issued before this act shall take effect, and each number of a periodical shall be considered an independent publication, subject to the form of copyrighting as above.” (Sec. 11.)

“That this act shall go into effect on the first day of July, anno Domini eighteen hundred and ninety-one.” (Sec. 12.)

“That this act shall only apply to a citizen or subject of a foreign state or nation when such foreign state or nation permits to citizens of the United States of America the benefit of copyright on substantially the same basis as its own citizens; or when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States of America may at its pleasure become a party to such agreement. The existence of either of the conditions aforesaid shall be determined by the President of the United States, by proclamation made from time to time as the purposes of this act may require.” (Sec. 13.)

#### LIBRARY OF CONGRESS.

#### COPYRIGHT OFFICE.

The Act approved March 3, 1891, amendatory of the copyright law (51st Congress, 1st session, chap. 565, 26 Statutes at Large, pp. 1106-1110), specially provides by its thirteenth section—

“That this act shall only apply to a citizen or subject of a

foreign state or nation when such foreign state or nation permits to citizens of the United States of America the benefit of copyright on substantially the same basis as its own citizens; or when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States of America may at its pleasure become a party to such agreement. The existence of either of the conditions aforesaid shall be determined by the President of the United States, by proclamation made from time to time as the purposes of this act may require."

Only such literary, dramatic, musical, or artistic works, therefore as are the productions of persons who are citizens of countries with which the United States have entered into copyright relations can be entered for copyright.

The following proclamations have been issued by the President, by which copyright protection is granted in the United States to works of AUTHORS who are citizens or subjects of the countries named:

July 1, 1891—Belgium, France, Great Britain and her possessions, and Switzerland. (Statutes at Large, vol. 27, pp. 981, 982. Copyright Office Bulletin, No. 3, pp. 67-68.)

April 15, 1892—Germany. (Statutes at Large, vol. 27, pp. 1021, 1022. Copyright Office Bulletin, No. 3, pp. 68-70.) See full text below.

October 31, 1892—Italy. (Statutes at Large, vol. 27, p. 1043. Copyright Office Bulletin, No. 3, pp. 70-71.)

May 8, 1893—Denmark. (Statutes at Large, vol. 28, p. 1219. Copyright Office Bulletin, No. 3, p. 71.)

July 20, 1893—Portugal, (Statutes at Large, vol. 28, p. 1222. Copyright Office Bulletin No. 3, p. 72.)

July 10, 1895—Spain. (Statutes at Large, vol. 29, p. 871. Copyright Office Bulletin, No. 3, pp. 72-73.)

February 27, 1896—Mexico. (Statutes at Large, vol. 29, p. 877. Copyright Office Bulletin, No. 3, pp. 73-74.)

May 25, 1896—Chile. (Statutes at Large, vol. 29, p. 880. Copyright Office Bulletin, No. 3, pp. 74-75.)

October 19, 1899—Costa Rica. (Statutes at Large, vol. 31, pp. 1955, 1956. Copyright Office Bulletin, No. 3, pp. 75-76.)

November 20, 1899—Netherlands (Holland) and possessions.  
(Statutes at Large, vol. 31, p. 1961. Copyright Office Bulletin, No. 3, p. 76.)

November 17, 1903—Cuba. See text, page 3.

January 13, 1904—China. (Treaty of October 8, 1903, Article xi.) See text, page 3.

July 1, 1905—Norway.

Moreover, the Act cited above provides that the charge for recording the title or description of any article entered for copyright which is the production of a person who is a citizen or subject of any of the countries named above shall be one dollar.

It is therefore necessary in the application for copyright to state distinctly the nationality of the AUTHOR of the book or other production, to determine, first, whether the work is subject to the privilege of copyright in the United States, and, second, the amount of fee to be charged for recording the title.

PROCLAMATIONS ISSUED BY THE PRESIDENT, EXTENDING COPYRIGHT TO CITIZENS OF CERTAIN FOREIGN COUNTRIES: 1891-1904.

I.—GERMANY.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

A PROCLAMATION.

Whereas it is provided by section 13 of the act of Congress of March 3, 1891, entitled "An act to amend title sixty, chapter three, of the Revised Statutes of the United States, relating to copyrights," that said act "shall only apply to a citizen or subject of a foreign state or nation when such foreign state or nation permits to citizens of the United States of America the benefit of copyright on substantially the same basis as its own citizens; or when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States of America may, at its pleasure, become a party to such agreement;"

And whereas it is also provided by said section that "the existence of either of the conditions aforesaid shall be deter-

mined by the President of the United States by proclamation made from time to time as the purposes of this act may require;”

And whereas, in virtue of said section 13 of the aforesaid act of Congress, a copyright agreement was signed at Washington, on January 15, 1892, in the English and German languages, by the representatives of the United States of America and the German Empire, a true copy of the English version of which agreement is word for word as follows:

The President of the United States of America and His Majesty the German Emperor, King of Prussia, in the name of the German Empire, being actuated by the desire to extend to their subjects and citizens the full benefit of the legal provisions in force in both countries in regard to copyright, have to this end, decided to conclude an agreement, and have appointed as their plenipotentiaries:

The President of the United States of America, James G. Blaine, Secretary of State of the United States:

His Majesty the German Emperor, King of Prussia, Alfons Mumm von Schwarzenstein, his charge d'affaires near the Government of the United States of America, who, being duly authorized, have concluded the following agreement, subject to due ratification:

#### ARTICLE I.

Citizens of the United States of America shall enjoy, in the German Empire, the protection of copyrights as regards works of literature and art, as well as photographs, against illegal reproduction, on the same basis on which such protection is granted to subjects of the Empire.

#### ARTICLE II.

The United States Government engages, in return, that the President of the United States shall, in pursuance of section 13 of the act of Congress of March 3, 1891, issue the proclamation therein provided for in regard to the extension of the provisions of that act to German subjects as soon as the Secretary of State shall have been officially notified that the present agreement has received the necessary legislative sanction in the German Empire.

## ARTICLE III.

This agreement shall be ratified, and the ratifications shall be exchanged at Washington as soon as possible.

The agreement shall go into operation at the expiration of three weeks from the date of the exchange of its ratifications, and shall be applicable only to works not published at the time when it shall have gone into operation. It shall remain in force until the expiration of three months from the day on which notice of a desire for the cessation of its effects shall have been given by one of the contracting parties.

Done in duplicate, in the English and German languages, at the city of Washington, this 15th day of January, 1892.

JAMES G. BLAINE, [SEAL]

A. V. MUMM, [SEAL]

And whereas the official notification contemplated by Article II of the said agreement has been received by this Government;

Now, therefore, I, Benjamin Harrison, President of the United States of America, do declare and proclaim that the first of the conditions specified in section 13 of the act of March 3, 1891, is now fulfilled in respect to the subjects of the German Empire.

In testimony whereof I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the city of Washington, the fifteenth day of April, one thousand eight hundred and ninety-two, and of the Independence of the United States the one hundred and sixteenth.

BENJ. HARRISON.

By the President:

JAMES G. BLAINE, *Secretary of State.*

## II.—COPYRIGHT—CUBA.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

## A PROCLAMATION.

Whereas, it is provided by section 13 of the act of Congress of March 3, 1891, entitled "An act to amend title sixty, chapter 3, of the Revised Statutes of the United States, relating to copyrights," that said act "shall only apply to a citizen or

subject of a foreign state or nation when such foreign state or nation permits to citizens of the United States of America the benefit of copyright on substantially the same basis as its own citizens; or when such foreign state or nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States of America may, at its pleasure, become a party to such agreement;”

And whereas it is also provided by said section that “the existence of either of the conditions aforesaid shall be determined by the President of the United States by proclamation made from time to time as the purposes of this act may require;”

And whereas satisfactory official assurances have been given that in Cuba the law permits to citizens of the United States the benefit of copyright on substantially the same basis as to the citizens of Cuba:

Now, therefore, I, THEODORE ROOSEVELT, President of the United States of America, do declare and proclaim that the first of the conditions specified in section 13 of the act of March 3, 1891, now exists and is fulfilled in respect to the citizens of Cuba.

In testimony whereof, I have hereunto set my hand and caused the seal of the United States to be affixed.

Done at the City of Washington this 17th day of November, one thousand nine hundred and three, and of the independence of the United States the one hundred and twenty-eighth.

THEODORE ROOSEVELT.

By the President:

JOHN HAY, *Secretary of State.*

## III.—COPYRIGHT TREATY WITH CHINA.

TREATY BETWEEN THE UNITED STATES AND CHINA FOR THE EXTENSION OF THE COMMERCIAL RELATIONS BETWEEN THEM.

*Signed at Shanghai, October 8, 1903. Ratification advised by the Senate, December 18, 1903. Ratified by the President, January 12, 1904. Ratified by China, January 10, 1904. Ratifications exchanged at Washington, January 13, 1904. Proclaimed, January 13, 1904.*

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.

## A PROCLAMATION.

Whereas a Treaty and three Annexes between the United States of America and China to extend further the commercial relations between them and otherwise to promote the interests of the peoples of the two countries, were concluded and signed at Shanghai in the English and Chinese languages, on the eighth day of October, one thousand nine hundred and three, the original of the English text of which Treaty and Annexes is word for word as follows:

The United States of America and His Majesty the Emperor of China, being animated by an earnest desire to extend further the commercial relations between them and otherwise to promote the interests of the peoples of the two countries, in view of the provisions of the first paragraph of Article XI of the final Protocol signed at Peking on the seventh day of September, A. D. 1901, whereby the Chinese Government agreed to negotiate the amendments deemed necessary by the foreign governments to the treaties of commerce and navigation and other subjects concerning commercial relations, with the object of facilitating them, have for that purpose named as their Plenipotentiaries:—

The United States of America—

EDWIN H. CONGER, *Envoy Extraordinary and Minister Plenipotentiary of the United States of America to China*—  
JOHN GOODNOW, *Consul-General of the United States of America at Shanghai*—  
JOHN F. SEAMAN, *a citizen of the United States of America resident at Shanghai*—

And His Majesty the Emperor of China—

LU HAI-HUAN, *President of the Board of Public Works—*  
SHENG HSUAN-HUAI, *Junior Guardian of the Heir Apparent. Formerly*  
*Senior Vice-President of the Board of Public Works.*

who, having met and duly exchanged their full powers which were found to be in the proper form, have agreed upon the following amendments to existing treaties of commerce and navigation formerly concluded between the two countries, and upon the subjects hereinafter expressed connected with commercial relations, with the object of facilitating them.

\* \* \* \* \*

#### ARTICLES RELATING TO TRADE-MARKS, PATENTS, AND COPYRIGHTS.

##### ARTICLE IX—TRADE-MARKS.

Whereas the United States undertakes to protect the citizens of any country in the exclusive use within the United States of any lawful trade-marks, provided that such country agrees by treaty or convention to give like protection to the citizens of the United States:—

Therefore the Government of China, in order to secure such protection in the United States for its subjects, now agrees to fully protect any citizen, firm or corporation of the United States in the exclusive use in the Empire of China of any lawful trade-mark to the exclusive use of which in the United States they are entitled, or which they have adopted and used, or intend to adopt and use as soon as registered, for exclusive use within the Empire of China. To this end the Chinese Government agrees to issue by its proper authorities proclamations, having the force of law, forbidding all subjects of China from infringing on, imitating, colorably imitating, or knowingly passing off an imitation of trade-marks belonging to citizens of the United States, which shall have been registered by the proper authorities of the United States at such offices as the Chinese Government will establish for such purpose, on payment of a reasonable fee, after due investigation by the Chinese authorities, and in compliance with reasonable regulations.

##### ARTICLE X.—PATENTS.

The United States Government allows subjects of China to

patent their inventions in the United States and protects them in the use and ownership of such patents. The Government of China now agrees that it will establish a Patent Office. After this office has been established and special laws with regard to inventions have been adopted it will thereupon, after the payment of the prescribed fees, issue certificates of protection, valid for a fixed term of years, to citizens of the United States on all their patents issued by the United States, in respect of articles the sale of which is lawful in China, which do not infringe on previous inventions of Chinese subjects, in the same manner as patents are to be issued to subjects of China.

#### ARTICLE XI.—COPYRIGHT.

Whereas the Government of the United States undertakes to give the benefit of its copyright laws to the citizens of any foreign State which gives to the citizens of the United States the benefits of copyright on an equal basis with its own citizens:—

Therefore the Government of China, in order to secure such benefits in the United States for its subjects, now agrees to give full protection, in the same way and manner and subject to the same conditions upon which it agrees to protect trademarks, to all citizens of the United States who are authors, designers or proprietors of any book, map, print or engraving especially prepared for the use and education of the Chinese people, or translation into Chinese of any book, in the exclusive right to print and sell such book, map, print, engraving or translation in the Empire of China during ten years from date of registration. With the exception of the books, maps, etc., specified above, which may not be reprinted in the same form, no work shall be entitled to copyright privileges under this article. It is understood that Chinese subjects shall be at liberty to make, print and sell original translations into Chinese of any works written or maps compiled by a citizen of the United States. This article shall not be held to protect against due process of law any citizen of the United States or Chinese subjects who may be author, proprietor or seller of any publication calculated to injure the well-being of China.

THORVALD SOLBERG,  
*Register of Copyrights.*

## URUGUAY.

## PATENT LAW.

[November 13, 1885.]

## TITLE I.

*General provisions.*

ARTICLE 1. The Executive Power is hereby authorized to issue patents of exclusive privilege in cases of invention or improvements thereon.

ART. 2. It is also authorized to grant owners of foreign patents the privilege of using them in the country: *Provided*, That the patent has not been used for more than one year, and that the applicant is the inventor or his agent or assignee.

ART. 3. New discoveries or inventions in all industries confer upon their authors the exclusive right of exploitation during the time and under the conditions set forth in this law.

ART. 4. The following shall be considered new discoveries or inventions: New industrial products, new means, and new application of means already known, for obtaining an industrial result or product.

ART. 5. Patents of privilege shall not be granted to financial schemes; discoveries or inventions that are sufficiently known in the country, or abroad, through printed books, pamphlets, or periodicals; devices that are purely theoretical, the usefulness of which has not been practically demonstrated; pharmaceutical compositions; and anything contrary to good morals or to the laws of the Republic.

ART. 6. The nation shall not guarantee either the merit, or the priority, of the discoveries or inventions.

ART. 7. Patents shall be granted for three, six, and nine years, according to the will of the applicant.

ART. 8. For the granting of each patent a fee of twenty-five dollars per year shall be paid as long as the privilege lasts.

ART. 9. The payment of the annual fee shall be made in the Office of Public Credit, within the first ten days of each year, under penalty of forfeiture or annulment of the patent, and the

patent shall not be delivered to the applicant, until he proves to have paid the first annual payment.

ART. 10. After the expiration of the ten days mentioned in the above article without the payment having been made, the Executive Power shall admit, and in its case prefer, the applications for privileges of the same nature that may be made by others.

ART. 11. When the patent granted pertains to industries which may affect public health or comfort, the Executive Power shall, upon the report of the Council of Public Health, designate, at its discretion, a convenient place where the industries to which the privilege refers shall be located.

ART. 12. The new industry having been established within the period fixed by the Executive Power, the patentee shall, by means of an application to be filed at the Patent Office, give notice of the fact and indicate the place where the establishment is situated. This application shall be referred to the General Director of Public Works and to the Board of Health, so as to ascertain whether all the requirements of law have been fulfilled.

ART. 13. If through superior force, or accident, duly proven, the establishment of the industry within the time fixed by the Executive Power under article 11 becomes impossible, the patentee shall have the right to apply to the legislative body for an extension of time. This application, however, shall be made at least three months before the time expires.

## TITLE II.

### *Bureau of patents.*

ART. 14. The patents referred to in the above articles shall be issued on proper stamped paper, by the Division of Trade marks, which, after the promulgation of this law, shall be called "Bureau of Patents of Inventions and Trade Marks." The patents shall be issued under the seal and signature of the Secretary for the Department of Government, the Chief of the Bureau before mentioned attesting his signature.

ART. 15. The personnel of the Bureau shall consist of a Chief and a Secretary, with the salaries assigned to them by law.

ART. 16. No employee of this Bureau shall have, directly or indirectly, any interest in the patents with which he has to deal;

otherwise, he shall incur, upon conviction, the penalty of immediate dismissal.

ART. 17. The Chief of the Bureau is responsible before the Government for all the papers and objects intrusted to his care and shall preserve them with the greatest care and attention.

ART. 18. This Bureau shall depend directly upon the Department of Government.

### TITLE III.

#### *Formalities for the granting of patents.*

ART. 19. Every person desiring to obtain a patent of invention shall make an application in writing, on stamped paper of the class costing \$1 a sheet, addressed to the Secretary of Government. This application shall be handed to the Chief of the Bureau of Patents of Inventions and Trade Marks, who shall file it at once, and cause it to take its proper course.

A statement showing the day and hour of the filing of the application shall be written at the foot thereof by the Chief of the Bureau.

ART. 20. The application shall be accompanied by a clear and succinct description, in duplicate, of the invention, or improvement, and also by specimens, drawings, or models, according to the nature of the case. The applicant in all cases shall declare upon oath that the ownership of the invention belongs to him. He shall also request that a patent insuring his rights be issued in his favor.

The exhibits filed with the application must be made out of durable materials and with proper prolixity.

ART. 21. The application shall be limited to asking the privilege and stating the length of time for which it is desired. It shall contain neither restrictions, conditions, nor reservations. It shall set forth the name by which the invention is to be known, and shall be written in Spanish. If corrections or additions have been made in the text due notice of the fact shall be given at the end of the document. The drawings accompanying it shall be made with ink, and according to the metric system established in the Republic.

ART. 22. The patent shall be issued in the name of the nation

and shall consist of the decree that grants it, accompanied by the duplicate of the description and of the drawings.

ART. 23. The concession of a patent shall not prevent the objections mentioned in article 35 from being made.

ART. 24. The Chief of the Bureau of Patents shall transmit every three months to the Government for publication a succinct and detailed report of the patents issued.

ART. 25. He shall also submit annually to the Director-General of Statistics a list of the patents granted, showing the time of their respective duration, and the sum paid by the patentees.

ART. 26. The Bureau of Patents shall publish every two years in a volume all the records of the cases in which patents have been granted, said records to be accompanied by the respective descriptions, models, and drawings.

#### TITLE IV.

##### *Certificates of improvements.*

ART. 27. Improvers of a patented invention or discovery shall have the right to apply for an "additional certificate," which, however, shall never be granted for a longer time than that which remains of the original patent.

The "additional certificate" shall be issued on proper stamped paper and shall be signed and sealed by the Secretary of Government and attested by the Chief of the Bureau of Patents.

ART. 28. To obtain an "additional certificate," it shall be necessary for the applicant to fulfill the same formalities as are required for a patent, with the exception that the fee shall be one-third of the original, if the applicant is the patentee, and two-thirds if someone else.

ART. 29. Grantees of "additional certificates" being others than the patentee shall not enjoy in full the rights of inventor, except on condition of paying a royalty to the original inventor, the value of which shall be determined by two experts named by the parties interested, and an umpire in cases of disagreement, taking into account for this purpose the importance of the improvement and the part it still keeps of the original invention.

ART. 30. The patentee shall have the right to choose either the royalty referred to in the foregoing article or the exploitation of the improvement in conjunction with the improver.

If he chooses the latter, an additional patent, with the same rights and requisites as granted to the improver, shall be issued in his favor.

ART. 31. In no case shall the improver acquire the right of exclusively exploiting the original invention. Neither can the first inventor exploit the improvement, except in the case provided by the foregoing article.

ART. 32. If two or more persons apply at the same time for a patent for the same invention, or for an "additional certificate" for the same improvement, no action shall be taken upon their applications until they come to an agreement.

#### TITLE V.

##### *Transfer of patents.*

ART. 33. The grantee of a patent or "additional certificate" shall have the power to transfer his rights, on such conditions as he may deem advisable: *Provided*, That the transfer is witnessed by a public document, executed upon notice to the Bureau of Patents, without which requisite the transfer shall have no value.

ART. 34. All the rights granted to a patentee shall be understood to be attached to the patent, and shall be transferred with it, except upon express stipulation to the contrary.

#### TITLE VI.

##### *Nullification and extinction of patents.*

ART. 35. Patents or certificates obtained in violation of article 5 shall be void. Those obtained through false testimony or pretenses shall also be void. When the description proves to be incorrect, or incomplete, and when a foreign invention is made to appear as domestic, the author of the false statement shall be punished with a fine of five hundred dollars or six months' imprisonment.

ART. 36. Valid patents shall become extinct in the following cases: When the industry to which they refer has not been established in the country within the time, or under the conditions, set forth in the concession; when the time for which the patent was granted has expired; when the exploitation of the industry has been discontinued for one year, except in case of accident or

superior force, which the patentee shall have to fully prove within one month. At the expiration of this time, if said proof has not been furnished, the Bureau of Patent shall publish through the press that the privilege has become extinct.

ART. 37. Upon the failure by the patentee to comply with the provision of article 12, the Bureau of Patents shall summon him by means of the newspapers, and give him one month to comply with said provision. If at the expiration of this time he has not entered his appearance, the patent shall be invalidated, and notice of the extinction thereof shall be published in the press as in the case of the foregoing article.

ART. 38. The action for the nullification or extinction of a patent can only be brought before the Civil courts by persons having an interest in it.

ART. 39. Judicial declaration of the nullification or extinction of a patent is not indispensable to cause the invention or discovery to become public property. The mere fact of the extinction or nullification shall be sufficient in itself to enable all persons to exploit it.

ART. 40. If the owner of an extinct or null patent should obstruct the free exploitation of the same by means of lawsuits, or in any other way, the civil courts shall be open to all to secure the proper remedy upon proof of the extinction or nullification of the patent.

ART. 41. The proceedings in these cases shall be brief. All kinds of legal evidence shall be admitted, but none shall be received which tends to contradict the documents issued by the Bureau of Patents. The time to file evidence shall in no case exceed twenty days, and the decision shall be rendered within the period of ten days thereafter. The decision shall order the party losing the case to pay the costs.

An appeal may be taken to the Superior Court of Appeals, which after hearing the Report of the Bureau of Patents shall finally decide the case.

ART. 42. As soon as the extinction or nullification of a patent is formally declared, the court shall give information of the fact to the Chief of the Bureau of Patents, who shall cause it to be published at once.

## TITLE VII.

*Prosecution and punishment of infringements.*

ART. 43. The usurpation of the rights of a patentee shall be considered a criminal offense, punishable with a fine of from \$100 to \$500, or with imprisonment from one to six months, the loss of the articles and an indemnification for damages.

ART. 44. Those who, knowingly, cooperate in any way whatever to the infringement, shall be punished with the same penalties provided in the foregoing article.

ART. 45. These penalties shall be doubled in case of a second offense having been committed within five years of a former conviction.

ART. 46. The fact that the infringer was a workman or employee of the patentee, or obtained by deceit knowledge of the invention, shall be considered an aggravating circumstance.

ART. 47. The action against the infringers is private, and shall be brought before the Criminal Court. The patent shall be filed, together with the complaint, otherwise the court shall take no action.

ART. 48. The defendant can only allege in his favor the nullification or extinction of the patent, his having an interest in it, or his exclusive ownership thereof.

ART. 49. The plaintiff has the right to compel the defendant to give bond, but shall not interrupt him in the exploitation of the invention if he wishes to continue it.

If security is not given, the plaintiff shall have the right to request the suspension of the exploitation of the industry, and even the attachment of the effects that constitute it, giving in this case, if required, the proper security.

ART. 50. All those who, without having obtained a patent, or not lawfully enjoying the privileges thereof, should assume the rights of a patentee, shall be considered infringers, and shall be subject to the penalties established by law.

## TITLE VIII.

*Final provisions.*

ART. 51. Copies of the records, models, etc., in patent cases, shall be given by the Bureau of Patents to the patentees alone, or

to their agents or assignees, during the time of the patent. After the expiration of this time the application may be made by anyone.

ART. 52. The Secretary of Government shall order the copies referred to in the foregoing article to be made at the expense of the applicant, on stamped paper of the second-class. The applicant shall pay at the rate of \$2 per written page. The costs of the drawings, maps, models, etc., shall be paid extra, according to appraisement made by the Director of Public Works at the request of the Department.

ART. 53. The amount realized from patent fees and fines under the present law shall be applied to meet the general expenses of the nation.

ART. 54. The Chief of the Bureau of Patents shall keep such books as may be necessary for the transaction of the patent and trade mark business, and the folios of the said books shall be signed by the Chief Clerk of the Department.

The entries made in these books shall contain:

1. A description of each patent granted, its class, date, duration, and all other particulars which may be deemed necessary for identification.

2. A memorandum of the applications filed, stating the name of the applicants, the nature of the patents applied for, and the dates of the filing thereof. This memorandum shall be signed in the book by the applicant.

ART. 55. The law of June 20, 1853, and all others contrary to the present one are hereby repealed.

#### RULES FOR THE APPLICATION OF THE PATENT LAW.

[*November 16, 1885.*]

ARTICLE 1. The Bureau of Patents and Trade Marks is hereby authorized to take cognizance of applications for patents and trade marks, and to submit them in due time, for decision, to the Department of Government.

ART. 2. All rules and decrees of interlocutory character shall be signed by the Chief of the Bureau and countersigned by the Secretary.

ART. 3. When the owner of a foreign patent desires it to be recognized in the Republic, it shall be necessary for him to prove

that not more than one year has elapsed since the patent was granted, and that he is either the inventor or the inventor's attorney or assignee.

All documentary evidence tending to prove these facts shall be filled with the application. Otherwise, the latter shall not be taken into consideration.

ART. 4. Before issuing a patent an order shall be made requiring the applicant to pay in advance the annual quota to which article 9 of the law refers. The receipt of that amount, executed by the head of the Office of Public Credit, shall be filed and preserved with the papers in the case. This having been done the whole record shall be submitted to the Secretary of Government.

ART. 5. If the applicant should fail to pay within ten days after ordered to do so, the quota referred to in the foregoing article, the Bureau of Patents shall make a memorandum of the fact for the purposes of article 10 of the law.

ART. 6. All patentees shall, in compliance with articles 8 and 9 of the law, file every year in the Bureau of Patents the receipt of the Chief of the Office of Public Credit showing that they have paid in due time their annual quota. This receipt shall be filed with the papers in the case.

If this provision is not complied with within the legal period the Chief of the Bureau of Patents shall report the fact to the Minister of Government.

ART. 7. The agreement referred to in article 32 of the law shall be proven by a document in writing executed before a notary public.

ART. 8. In addition to the books required by article 54, the Bureau of Patents shall keep the following, all the folios of which shall be signed by the Chief Clerk of the Department of Government:

1. A book of fees, where the entry shall be made of all the sums paid to the Government for the issuing of patent certificates, copies, etc.

2. A book of transfers for the purposes of article 33.

3. A register of all the orders, whether executive or judicial, directing the forfeiture or extinction of patents.

ART. 9. The granting of certificates (art. 28) shall be regulated by the provisions of articles 4 and 5 of the present decree.

ART. 10. The Bureau of Patents shall not take action on any

application for patents without making at the foot thereof a statement in writing that no other patent of a similar character and still in force has been granted, this statement to be made upon examination of the archives.

ART. 11. When the patent applied for has been already granted and is in force, the Bureau of Patents shall immediately transmit the application with its report to the Secretary of Government.

## TRADE MARK LAW.

[*March 1, 1877.*]

### CHAPTER I.

#### *General provisions.*

ARTICLE 1. A Bureau of Trade Marks is hereby created in the Department of Government.

ART. 2. Trade marks are denominations of articles, or names of persons, in some particular form; emblems, monograms, engravings, or prints; seals, vignettes, and stamps in relief; letters and numerals with a special design; casks or wrappings of articles; or any other sign by which the products of a factory or the articles of a trade are to be distinguished.

ART. 3. The mark can be placed upon the casks or wrappings or upon the articles themselves.

ART. 4. The following shall not be considered trade marks:

1. Letters, words, names, or distinctive designations used or to be used by the Government alone.
2. The shape or form given to the article by the manufacturer.
3. The color of the products.
4. Terms or expressions which have become of general use.
5. Designations usually employed to indicate the nature of the products, or the class to which they belong.
6. Drawings or expressions contrary to morals.

ART. 5. The exclusive ownership of a trade mark, as well as the right to oppose the use of the same, or of any other which directly or indirectly may produce confusion, shall be vested in the manufacturer or merchant who has complied with the requirements of the present law.

ART. 6. The exclusive ownership of a trade mark is only acquired with relation to industries of the same kind.

ART. 7. The use of the mark is optional. It shall, nevertheless, be compulsory if the necessities of the public good demand it.

ART. 8. The ownership of a mark passes to the heirs, and can be conveyed by contract or testamentary disposition.

ART. 9. The transfer or sale of the business includes that of the trade mark, unless something to the contrary has been stipulated. The successor in the business shall have the right to use the trade mark, even if it be a name, exactly in the same way as the former owner did, with no other restrictions than those expressly set forth in the agreement of sale or transfer.

ART. 10. The transfer of a trade mark shall be recorded at the office of the Department of Government, where the mark itself was registered. Otherwise the transferee shall have no right to use it.

ART. 11. Trade marks shall be considered in use for the purposes of the ownership granted by the present law when proven by the proper certificate of the Department of Government, and not otherwise.

ART. 12. The protection of the rights of the owner of a trade mark shall last only ten years. This term may be extended indefinitely for periods of the same length, upon fulfillment of all necessary formalities and the payment of the fees hereinafter to be established.

## CHAPTER II.

### *Formalities for acquiring the ownership of the trade marks.*

ART. 13. All those wishing to secure the ownership of a trade mark shall file an application to that effect at the Department of Government.

ART. 14. The application shall be accompanied—

1. By two copies of the mark, the exclusive use of which is desired.

2. By a description, in duplicate, of the mark, if it consists of figures or emblems. This description shall set forth the class of articles to which the mark is to be affixed and also whether said articles are the special products of a factory or articles belonging to a trade.

3. By a receipt showing that the applicant has paid in the

General Treasury the amount of the fee established by article 20.

4. By a power of attorney, if the application is made by proxy.

ART. 15. Upon the filing of the application a brief statement of the contents thereof shall be entered in a book kept for this purpose, giving the day and hour on which the application was filed. The pages of this book shall be numbered and signed or authenticated by the Secretary of Government.

The statement herein referred to shall be signed by the officer in charge of this business and also by the applicant. The latter shall be given, if he asks for it, a certified copy of the entry, without incurring thereby more expense than the cost of the stamped paper on which the copy is to be written.

ART. 16. Priority of ownership of a trade mark shall be determined according to the day and the hour of the filing of the petitions in the Department of Government.

ART. 17. The certificate of ownership of the trade mark to be issued by the Division of Patents of the Department of Government shall consist of a certified copy of the Executive decree which granted it, accompanied by a duplicate of the description and drawings. It shall be issued in the name of the nation under the authority of the Government. It shall be signed by the Secretary of Government, and the seal of the Department of this name shall be affixed to it.

ART. 18. A motion to reconsider shall be allowed whenever the decision of the Department refuses to recognize the ownership of a trade mark. The motion is to be filed within ten days subsequent to the decision, and the Secretary of Government, after hearing the opinion of the Attorney-General, shall affirm or amend his decision.

ART. 19. The Division of Patents shall keep a book wherein all the concessions of trade marks shall be entered in chronological order. The clerk in charge of this book shall submit every three months to the Secretary of Government a list of the certificates which have been granted during the period and of those which have been refused. The dates in each case shall be carefully given. This list shall be published.

ART. 20. The following fees shall be paid:

1. For the registration and certificate of a trade mark, of whatever origin, \$50 in gold.

2. For the registration and certificate of a transfer, \$25 in gold.

3. For each authenticated copy which may thereafter be desired of the said certificate, \$4 in gold, in addition to the cost of the stamped paper on which the document is to be written.

ART. 21. The trade marks referred to in the certificates, and the applications and descriptions filed for the purpose of obtaining them, shall be preserved in the archives of the Division of Patents.

ART. 22. All persons wishing to examine the trade marks and the descriptions thereof preserved at the division aforesaid, shall be permitted to do so.

### CHAPTER III.

#### *Names as trade marks.*

ART. 23. The name of a merchant, or of a firm, and the sign or designation of a business house, store, or establishment dealing in some particular articles, constitute industrial property for the purposes of this law.

ART. 24. If a merchant wishes to engage in an industry in which another person is already engaged under the same name, or the same conventional designation, he shall amend the name or designation already in use, so as to make it visibly different from the new one.

ART. 25. If the party injured by the use of a name of manufacture or trade does not make any complaint within one year, to be counted from the date on which the said use began, all complaints on his part shall be barred by limitation.

ART. 26. Corporations and individual persons shall have in regard to their names exactly the same rights, and they shall be also subject to the same restrictions.

ART. 27. The exclusive right to use a name as industrial property shall terminate with the existence of the business house or establishment to which it belongs, or with the cessation of the industry to which it refers.

ART. 28. The registration of a name is not necessary to secure for it the rights granted by this law, unless in case that the name forms part of a trade mark.

## CHAPTER IV.

*Penal provisions.*

ART. 29. The following shall be punished with fines ranging from \$100 to \$500, or with imprisonment from fifteen days to one year:

1. Those who counterfeit or adulterate in any way whatever a trade mark.
2. Those who affix upon their products, or the articles of their trade, a mark belonging to others.
3. Those who knowingly sell, offer for sale, or consent to sell or circulate, articles bearing a counterfeited trade mark, or a mark fraudulently affixed upon them.
4. Those who knowingly sell, offer for sale, or consent to sell, counterfeited trade marks, and those who sell genuine trade marks without the consent of their owners.
5. Those who affix, or cause others to affix, upon some article any false statement or declaration relating either to the nature of the article, its quality, quantity, number, weight, measure, or to the place or country of its origin.
6. Those who knowingly sell, offer for sale, or consent to sell articles of merchandise bearing the false statements or declarations referred to in the foregoing paragraph.

In cases of second offense the penalties shall be doubled.

ART. 30. To constitute an offense within the meaning of the foregoing article it is not necessary for the infringement to embrace all the articles to be protected by the mark. It shall suffice for the wrong to have been done in reference to only one object.

ART. 31. Simple attempts shall not carry with them penal or civil responsibility; but they shall, nevertheless, authorize the destruction of the counterfeiting tools or instruments which were to be used.

ART. 32. Those who sell or offer for sale merchandise bearing usurped or counterfeited marks shall be bound to communicate in writing to the lawful proprietors, the names and addresses of the persons from whom they have received it and the date when the sale began. Should they refuse to give this notice, they may be legally compelled to do so under penalty of being considered accomplices.

ART. 33. Merchandise bearing counterfeited marks found in

the possession of the counterfeiter or his agents shall be confiscated and sold. The proceeds of the sale, after paying the expenses and the indemnities provided for by this law, shall be applied to the school fund of the Department where the confiscation took place.

ART. 34. Counterfeited marks found in possession of the counterfeiter or his agent shall be destroyed. The instruments which have been used for the counterfeiting shall also be destroyed.

ART. 35. No criminal prosecution shall be started in these cases by the Government. The right to prosecute belongs exclusively to the private parties whose rights and interests are affected by the infringement. The Government may, however, become a party to the proceedings after they are started.

The complainant may desist from the prosecution of his case at any time before the decision.

ART. 36. Parties wronged through the violation of any of the provisions of this decree shall have an action for damages against the wrong-doers and their accomplices.

All sentences passed against infringers shall be published at their expense.

ART. 37. Civil and criminal actions in these cases shall be barred by limitation three years after the date of the infringement, or of its repetition, or one year after the date on which the owner of the mark first knew of the infringement.

The period of limitation may be interrupted by the same facts and circumstances as in all other cases under the law.

ART. 38. The provisions of the present chapter shall be applicable to all those who, without any right to do so, make use of the name of a merchant, a firm, or the sign or designation of a business house, store, establishment, or factory, as set forth in articles 23 to 28 of the present law.

## CHAPTER V.

### *Special provisions.*

ART. 39. Business people who at the time of the promulgation of this law are possessed of a trade mark to be used within the territory of the Republic shall have to comply with the conditions established in the present law if they wish to continue to enjoy the exclusive right to use it. A period of six months, to be

counted from the date of publication of the present law, is granted them for this purpose.

ART. 40. If before the publication of this law, different persons engaged in industrial pursuits have made use of the same mark, the exclusive right to use it shall be recognized in favor of the one who proves to have been the first user.

If the priority of use can not be established, the ownership shall be given to the one who has command of best elements of production.

ART. 41. No claim to the ownership of a trade mark on the ground that it was used before the publication of this law shall be allowed, unless the mark has been registered within the period granted in article 39.

ART. 42. No certificate of ownership of trade marks shall be issued during the period of one year, to be counted from the date of the publication of this law, without first publishing in a newspaper of the capital of the Republic, and in another of the place of residence of the interested party, at the latter's expense, and for eight days, the application made to obtain it.

ART. 43. Foreign marks shall not enjoy the guarantees of the present law unless they are registered, as provided by it. The owners of said marks, or their duly authorized agents, shall be the only ones allowed to apply for said registration.

## CHAPTER VI.

### *Final provisions.*

ART. 44. After the filing by an attorney, at the Patent Office, of the power of attorney which accredits him in that capacity, said power of attorney being in due form as required by the said office, and after the recording of the same instrument, the Patent Office shall deal only with the said attorney, and it shall not communicate with the principal as long as the power of attorney remains unrevoked. If the applicant for a patent certificate has assigned or transferred his rights or claims to some other person before the certificate is issued, the office shall recognize the assignee or transferee, provided that he files proper evidence that the assignment or transfer was made.

ART. 45. The applications and descriptions or specifications shall be written in a clear, legible hand, and all clerical errors

occurring therein and needing correction shall be stated under the petitioner's signature at the end of the document.

The applications and descriptions or specifications shall be written on stamped paper of the ordinary class.

All these documents shall be prepared in the usual official form, leaving on the left side a margin equal to one-third of the page.

ART. 46. All drawings shall be made in this way: one copy on linen or cotton paper pasted on canvas and the other on vegetable or thin linen paper, which may be easily folded. Upon both copies the proper seal shall be stamped. The drawing on thin vegetable paper, together with one copy of the description or specification, and the certificate issued, shall constitute the record to be delivered to the applicant. The other drawing, together with the application, description, etc., shall be preserved in the archives.

ART. 47. Certified copies of powers of attorney used in these cases shall be written on stamped paper of the class provided by law.

ART. 48. Whoever may desire to obtain a patent certificate shall file his application in the manner and form provided in articles 14, 15, and 16 of the present law.

ART. 49. If the application is in proper form, an extract of its contents shall be entered on the books as provided by article 15 of this law.

ART. 50. The certificate shall be written on a detachable blank, with stub, of a book kept for this purpose. This blank shall be stamped according to the law regulating the price of stamped paper.

ART. 51. In the departments the deposit ordered by article 14 of this law shall be made in the respective post-office.

ART. 52. The Patent Office shall provide the post-offices with the books in which the applications for patent certificates shall be entered, when made in due form according to the present law.

ART. 53. The books so forwarded to the post-offices and the book of patent certificates shall have their leaves signed by the Secretary of Government.

ART. 54. As soon as the postmasters shall receive an application for a patent certificate they shall forward it to the Patent Office, together with a certified copy of the entry thereof made by them on the above named book, and specifications, drawings, and proper proof that the fees required by this law have been

paid. Until this payment is made no action shall be taken in the case.

ART. 55. The officer in charge of these matters in the Patent Office shall, as soon as he receives from a postmaster the documents referred to in the preceding article, acknowledge the receipt thereof, and enter on his own books a full statement of the case. In due time he shall send to the postmaster, for transmission to the interested party, either the certificate, if it is granted, or notice of the decision by which it was refused.

ART. 56. When all the requisites established by this law have been duly complied with, the trade mark certificate shall be delivered to the interested party.

#### DECREE OF APRIL 29, 1885, RELATING TO TRADE MARKS.

MONTEVIDEO, *April 29, 1885.*

The attention of the Government having been called to the frauds perpetrated by parties falsely advertising certain trade marks as entered in the Official Register created by the law of March 1, 1887, and whereas it is necessary to prevent the provision of No. 3, article 29, of the said law from being violated to the injury of the merchant or manufacturer, and also of the Treasury which fails to receive the respective fees:

Therefore, the President of the Republic does hereby decree:

ARTICLE 1. All those who should use trade marks and add to them a false statement that they have been entered in the National Register, according to the law of March 1, 1887, shall be deemed guilty of fraud and shall incur the penalties established in article 29 of the said law.

ART. 2. The Division of Trade Marks shall communicate to the district attorney, in order that he may start the proper prosecution, the names of the business men or merchants who may be found guilty under the provisions of the preceding article.

ART. 3. Information of the same character shall be transmitted to the Political Chief, who shall publish it in the official newspaper for three consecutive days.

ART. 4. The sums received from these fines shall be applied to the support of infant asylums.

OPINION OF THE ATTORNEY-GENERAL UPON THE USE OF LABELS  
CONTAINING THE WORDS "REGISTERED MARK.""OFFICE OF THE ATTORNEY-GENERAL.

"MOST EXCELLENT SIR: The decree of April 19 of the present year, provides that the use of marks containing the false statement that they have been entered in the National Register, or something else to the same effect, is fraudulent and punishable; but nothing in this language can be construed as being applicable to the case in which the words 'Registered Mark,' without referring at all to the National Register, form a part of the labels employed in foreign factories to distinguish the product.

"In the two cases to which the Trade Marks' Office refers it is proven that the words 'Registered Mark' refer to the country where the articles were manufactured, said articles being sold here without changing the wrappings or casks in which they were received.

"Under these circumstances it is impossible to consider that the merchants who sell here in their establishments imported articles as they are received may in any way be guilty of fraud under the provisions of the above cited decree, much less so when according to article 13 of the law of 1877, trade marks registered abroad do not enjoy the guarantees granted by our law unless they are inscribed in the National Register, and no one can do this except the owners themselves or their duly authorized agents.

"It is clear, therefore, that it would be unjust to prosecute merchants who, taking advantage of their just rights, sell foreign trade marks with the same wrappings and labels used by the manufacturers thereof.

"Your Excellency may therefore decide, if he deems proper, that in cases like this the Trade Marks' Office has no right to prosecute.

"TEOFILO E. DIAZ.

"MONTEVIDEO, July 17, 1885."

The aforesaid opinion was approved by the Secretary of Government by decree of July 28, 1885.

SECRETARIO DE GOBIERNO

## VENEZUELA.

## PATENT LAW.

[May 25, 1882.]

The Congress of the United States of Venezuela decrees:

ARTICLE 1. Any person who invents or discovers any new and useful art, machine, manufacture, or composition of substances, or some new and useful improvement of the aforesaid objects, can obtain a patent of invention after paying the tax established by this law, in accordance with its stipulations, provided the invention, discovery, or improvement be not already known and used by other persons in this country, nor patented and described in printed publication in the Republic or abroad, or been used by the public and sold for more than two years before the date of the application, unless it can be proved that it had been abandoned.

ART. 2. The patents shall be issued by the Federal Executive, in the name of the United States of Venezuela, and countersigned by the minister of fomento.

ART. 3. The Government does not guarantee the exactness, usefulness, or priority of the invention or discovery patented.

ART. 4. Any person wishing to obtain a patent must add to the application a description of the invention or discovery, machine, composition, or improvement, indicating accurately its nature and object. He shall also submit the corresponding drawings or samples.

ART. 5. Applicants in their petitions for patents must declare, under oath, that they are really the inventors or discoverers of the art, machine, manufacture, composition, or improvement for which they desire a patent. All controversies which may arise through the inaccuracy of declarations shall be submitted by the interested parties to the Federal courts of justice.

ART. 6. Patents shall be granted for a term of five, ten, or fifteen years, and become extinct six months, one year, or two years after they have been granted if during these terms the

invention or discovery for which the patent has been granted has not been put into practice.

*Sole paragraph.*—The patent shall specify the term within which it lapses, and the time granted for its duration shall be reckoned from the date on which the patent shall have been granted.

ART. 7. Applications for patents shall be addressed to the Federal Executive through the minister of fomento.

ART. 8. After having complied with the provisions established in this law, a patent shall be issued to the petitioner, which shall empower him to put into practice his invention, discovery, or improvement within the United States of Venezuela and its territories. This patent shall be issued by the Federal Executive through the department of fomento, according to the form immediately following the present article, and shall contain a short title or description of the invention or discovery, setting forth precisely its nature and purpose, and a concession to the patentee, his heirs or assigns, for the exclusive right to manufacture, use, or sell the invention or discovery.

#### FORM.

“The President of the Republic, with the affirmative vote of the Federal council.

“Whereas X has applied to the Federal Executive for a patent for [here the industry], and having complied with the provisions established by the respective law [date of the law]:

“Therefore, according to article 8 of the aforesaid law, and in the name of the United States of Venezuela, I issue unto him the present patent for the exclusive right of working the above-described industry for a period of —— years. The Federal Executive does not guarantee the exactness, usefulness, or priority of the discovery or invention patented.

“This patent shall lapse after ——, to be reckoned from this date, if during this lapse of time the aforesaid industry be not put into practice.

“Signed, sealed, and countersigned in the Federal Palace of Caracas, etc.”

ART. 9. Patents are subject to a yearly tax of 80 bolivars (\$16 United States currency) when granted for an invention

or discovery, and to a yearly tax of 60 bolivars (\$12) when granted for improved methods.

ART. 10. The amount of the tax mentioned in the above article shall be deposited in the national treasury of public service. Any person desiring to obtain a patent from the Federal Executive shall, on applying for it according to article 7, attach to his petition a voucher proving that he has paid the tax corresponding to half the number of years for which the patent is asked.

In case the patent can not be granted according to the provisions of this law, the petitioner shall forfeit the sum deposited as a tax in favor of popular instruction; and when the patent is granted to him, this sum shall be deducted from the aggregate he shall have to pay during the term the patent lasts.

*Sole paragraph.*—The Federal Executive can exempt from the tax established by article 9 of this law all inventors of discoveries or industrial products worthy of this protection in its opinion.

ART. 11. Whoever has obtained a patent can express the circumstance in his advertisements or trade marks without this fact being held as a guaranty from the Government as to the quality of the production, or as to the priority of the invention or discovery, or to hold good against the better right of a third party.

ART. 12. Whoever has obtained a patent in a foreign country for an invention or discovery can also obtain it in Venezuela, provided another person has not already obtained it.

*Sole paragraph.*—In the latter case the patent will only be granted for a lapse of time equal to that lacking for the expiration of the patent granted in the other country.

ART. 13. When the term for which a patent has been granted expires, the description of the discovery or invention to which it refers shall be published in the Official Gazette, and from that date it can be freely worked, as also the manufacture or sale of the products of industry which was guaranteed by the patent.

ART. 14. The same publication shall be made when, after granting a patent, it becomes extinct before being put into practice, according to article 6 of this law, or when it be de-

clared null and void before the time due, except in the first case of article 18.

ART. 15. The descriptions, drawings, and samples attached to petitions for patents shall be deposited in the fomento department.

ART. 16. The Federal Executive, after receiving an application for a patent, shall order its publication in the Official Gazette, and in case the patent be granted, it shall only be issued thirty days after its publication.

ART. 17. Inventions, improvements, and new industries which are a menace to public health and public security, or against morality or previously acquired rights, can not be patented.

*Sole paragraph.*—Nor can patents be granted for medicines, compositions, or drugs of any kind or shape, these being subject to special laws and regulations.

ART. 18. Besides the cases of article 6, patents granted shall be of no value when a decision of the Federal courts declares them as conflicting with the rights of a third party, and when the new industry patented ceases to be worked consecutively during a whole year, except in fortuitous cases or cases of superior force.

ART. 19. Damages against property guaranteed by a patent shall be decided by the corresponding codes in the Federal courts of justice.

ART. 20. The law on this subject promulgated on May 25, 1878, is hereby repealed.

Given in the palace of the Federal legislative council, in Caracas, on May 25, 1882, nineteenth year of the law and twenty-fourth of federation.

#### TRADE MARK LAW.

[*May 18, 1877.*]

The Congress of the United States of Venezuela decrees:

ARTICLE 1. Any person or company domiciled in the Republic, and any corporation created by national authority or by the Federal States or Territories, as well as any person, company, or corporation domiciled in a foreign country in which, by virtue of a treaty or agreement, Venezuelans have the same or analogous rights as those granted by this law, can obtain

protection or guaranty covering any legitimate trade or commerce mark for the use of which an exclusive right has been granted, or the adoption or use of which is desired for this purpose, provided the requirements of the present law have been complied with.

ART. 2. Any person desiring to obtain official protection for a trade or commerce mark shall file before the minister of fomento a petition on sealed paper of the seventh class, expressing the name of the interested person, his residence and business domicile; the kind of article or merchandise covered or intended to be covered by the trade or commerce mark, the peculiar description of the articles or objects included in the class covered or intended to be covered by the trade mark; a description of the same, with facsimiles in which can be seen its application and use, and, finally, the time during which the trade mark has already been in use, in case that it should not be the first time that its use or application is petitioned for.

ART. 3. Said petition shall be signed by the interested person, or by the person representing him, provided he can show a power of attorney in due form from the owner or owners of the trade mark, also stating in writing that the person petitioning for the trade or commerce mark has the right to use it, and that said trade mark does not resemble any other analogous one already registered, so that it could not be mistaken for it and thus deceive the public. The interested party shall also assert that the aforesaid description or facsimiles which are to be registered in the corresponding book are exact copies of the trade mark for which protection is asked.

ART. 4. The minister of fomento can not receive or register a trade or commerce mark which is not and can never be a lawful mark, or which is merely the name of a person, company, or corporation not accompanied by a mark sufficient to distinguish it from the same name when used by another person, or that the mark be equal to another covering the same class of objects and belonging to another person, or that the said mark be registered or presented to be registered, or that it be so much like the last-mentioned trade mark that it can be easily mistaken for it and thus deceive the public.

ART. 5. When any trade or commerce mark is submitted to the department of fomento to obtain the protection which this

law grants, the date of submittal shall be recorded and registered, and copies of the trade mark, with the date of its presentation and of the petition addressed to the minister of fomento, sealed with seal of the department and certified by the minister, shall be considered sufficient proof in case a controversy should arise as to priority for the use of the trade mark.

ART. 6. When the established provisions have been complied with, the National Executive, through the department of fomento, shall issue to the interested party, provided there be no opposition from a third party, a certificate *in national sealed paper of the third class, which the interested party is to provide*, in which it shall be declared that said person is the proprietor of the trade or commerce mark registered with all its specifications. Said certificate, which shall be sufficient title for the registrar, shall be signed by the minister of fomento and sealed with the seal of the ministry.

ART. 7. The exclusive right for the use of all trade or commerce mark registered and certified in the above-mentioned manner shall be in complete legal force for a term of thirty years, to be reckoned from the date it was registered, with the exception of the case when the mark covers articles manufactured abroad, and in which the same mark is protected, according to the law of a foreign country, for a shorter period; then the mark registered by virtue of this law shall cease to enjoy the official protection which it grants at the same time when protection granted by the foreign law ceases.

ART. 8. All trade marks registered in the aforesaid manner shall empower the person, company, or corporation who has registered them to use them exclusively, provided the objects or merchandise be substantially of the same properties and conditions as those described and consigned in the registry.

ART. 9. During six months prior to the expiration of the term of thirty years the petitioner can ask for the renewal of the registry of any trade or commerce mark, and this shall be granted under the same conditions as when first given, in a title written on sealed paper of the same class as formerly. The duration of this registration shall be for thirty years, as in the first case.

ART. 10. No person can legally claim the exclusive right to a trade mark which is used or is intended for use in unlawful

trade, or for an object noxious in itself, or for a trade mark which has been obtained by fraud, or which has been formed or used with a view of deceiving the public when buying or selling any merchandise.

ART. 11. Any person endeavoring to obtain, personally or through some one else, the registration of any trade or commerce mark, or who may petition the fomento department for anything which bears on this subject, by means of false or fraudulent representations or declarations in words or writing, or by any other fraudulent means, shall be subject to the penalties established by the criminal code, notwithstanding which the third party has always a right of claim for damages.

ART. 12. Any person found reproducing, imitating, or copying a registered trade mark, or using it on any merchandise containing the same properties and qualities as those described in the registry, is held answerable before the court for the damages caused by the illegal use of such a mark without being held free in cases of fraud from suffering the penalties established by the criminal code.

ART. 13. All that which relates to the registry referred to in the present law shall be in charge of the section which has charge of privileges or patents in the fomento department.

ART. 14. The section mentioned in the above article shall have two books for registry which shall be renewed each time that it be necessary, one for registering trade marks and the other for commercial marks, and a file is to be formed separately in every case.

ART. 15. The National Executive shall establish the rules and regulations necessary for carrying out the present law, and shall publish every year in the respective report of the department the lithographed trade or commerce marks registered, and can give access to the registers to any person petitioning therefor, and allow the publication of engravings of said marks.

ART. 16. Trade or commerce marks of foreign products or merchandise registered in other countries can also be registered in the fomento department, although there be no international treaties or conventions in existence on the subject, when the products or merchandise are of recognized utility in the Republic in the opinion of the National Executive.

Given and signed in the palace of the Federal Legislature at Caracas, on May 18, 1877, fourteenth year of the law and the nineteenth of federation.

## APPENDICES.

## APPENDIX A.

## ARGENTINE REPUBLIC, BOLIVIA, PARAGUAY, PERU, AND URUGUAY.

These five Republics are here grouped as forming one class, because, in respect to patents of invention and improvement, they are bonded together by a treaty concluded by them on the 16th of January, 1889, the provisions of which are as follows:

“ARTICLE 1. All persons obtaining patents of invention in any of the signatory States shall enjoy in all of them the rights of inventor, if within one year, at the most, they cause their patents to be registered in the manner and form provided by the laws of the country where its recognition is desired.

“ART. 2. The duration of the patent shall be governed by the laws of the country wherein it is to be put into practice. If in the country of its origin it is shorter than in the other, the duration of the patent in the latter may be reduced.

“ART. 3. Questions on the priority of the invention shall be decided, taking into account the date of the application for the patent, in the country or countries wherein it was granted.

“ART. 4. The following shall be deemed inventions or discoveries: All new processes, manual or mechanical apparatuses serving to manufacture industrial products; the discovery of a new industrial product; and the application of improved methods for the purpose of securing results superior to those which are known.

“The following shall not be patentable:

“First. Inventions and discoveries already known in any of the signatory States, or in others not a party to this treaty.

“Second. Those which are contrary to morals or the laws of the country where the patents are to be issued or recognized.

“ART. 5. The rights of the inventor involve the power of using the privileges and conveying them to others.

“ART. 6. Infringements of patents shall be prosecuted and punished according to the laws of the country where they have been committed.

“Art. 7. The simultaneous ratification of this treaty by all

the signatory nations shall not be necessary for its being carried into effect. The nation which approves of it shall communicate its approval to the governments of the Argentine Republic and Uruguay, and they shall give information of the fact to all the other nations. This method shall take the place of an exchange of ratification.

“ART. 8. The exchange of ratifications having been made as provided in the foregoing article, the treaty shall remain in force for an indefinite period.

“ART. 9. If any one of the signatory nations should desire to terminate the treaty, or to amend its provisions, it shall give notice thereof to the other nations; but the treaty shall not be terminated or amended until after the expiration of two years, to be counted from the date of the notice. During this period an effort shall be made to reach an agreement.

“ART. 10. The provisions of article 7 are applicable to all the nations not parties to this treaty but willing to join in it.”

## APPENDIX B.

## TREATY ON PATENTS OF INVENTION, INDUSTRIAL DRAWINGS, AND MODELS AND TRADE MARKS, AGREED UPON BY THE SECOND PAN-AMERICAN CONFERENCE AND SIGNED AT THE CITY OF MEXICO, JANUARY 27, 1902.

Their Excellencies the Presidents of the Argentine Republic, Colombia, Costa Rica, Chile, the Dominican Republic, Ecuador, Salvador, the United States of America, Guatemala, Haiti, Honduras, the United Mexican States, Nicaragua, Paraguay, Peru, and Uruguay, desiring that their respective countries should be represented at the Second International American Conference, sent thereto, duly authorized to approve the recommendations, resolutions, conventions, and treaties that they might deem convenient for the interests of America, the following delegates:

*For the Argentine Republic.*—His Excellency Antonio Bermejo, His Excellency Martín García Mérou, His Excellency Lorenzo Anadón.

*For Bolivia.*—His Excellency Fernando E. Guachalla.

*For Colombia.*—His Excellency Calos Martínez Silva, His Excellency General Rafael Reyes.

*For Costa Rica.*—His Excellency Joaquín Bernardo Calvo.

*For Chile.*—His Excellency Alberto Blest Gana, His Excellency Emilio Bello Codecido, His Excellency Joaquín Walker Martínez, His Excellency Augusto Matte.

*For the Dominican Republic.*—His Excellency Federico Henriquez y Carvajal, His Excellency Luis Felipe Carbo, His Excellency Quintín Gutiérrez.

*For Ecuador.*—His Excellency Luis Felipe Carbo.

*For El Salvador.*—His Excellency Francisco A. Reyes, His Excellency Baltasar Estupinian.

*For the United States of America.*—His Excellency Henry G. Davis, His Excellency William I. Buchanan, His Excellency Charles M. Pepper, His Excellency Volney W. Foster, His Excellency John Barrett.

*For Guatemala.*—His Excellency Antonio Lazo Arriaga, His Excellency Col. Francisco Orla.

*For Haiti.*—His Excellency J. N. Léger.

*For Honduras.*—His Excellency José Leonard, His Excellency Fausto Dávila.

*For Mexico.*—His Excellency Genaro Raigosa, His Excellency Joaquín D. Casasús, His Excellency José López-Portillo y Rojas, His Excellency Emilio Pardo jr., His Excellency Pablo Macedo, His Excellency Alfredo Chavero, His Excellency Francisco L. de la Barra, His Excellency Manuel Sánchez Marmol, His Excellency Rosendo Pineda.

*For Nicaragua.*—His Excellency Luis F. Corea, His Excellency Fausto Dávila.

*For Paraguay.*—His Excellency Cecilio Baez.

*For Peru.*—His Excellency Isaac Alzamora, His Excellency Alberto Elmore, His Excellency Manuel Alvarez Calderón.

*For Uruguay.*—His Excellency Juan Cuestas,

Who, after having communicated to each other their respective full powers and found them to be in due and proper form, excepting those presented by the representatives of Their Excellencies the Presidents of the United States of America, Nicaragua, and Paraguay, who act "ad referendum," have agreed to enter into a treaty on patents of invention, industrial drawings and models, and trade marks, in the following terms:

ARTICLE 1. The citizens of each of the signatory States shall enjoy in other nations the same advantages granted by them to their own citizens in regard to the trade marks of commerce, or of manufacture, to the models and industrial drawings, and to patents of invention.

Consequently, they shall have the right to the same protection and to identical remedies against any attack upon their rights.

ART. 2. For the purpose of this treaty, foreigners domiciled in any of the signatory countries, or who may have in them an industrial or commercial establishment, shall be considered the same as citizens.

ART. 3. Patents of invention and those of industrial drawings and models, as well as of trade marks of commerce or manufacture, granted in the country of their origin, may be imported to the other signatory States for registration and

publication, as may be required by the laws of the respective countries, and they shall be protected in the same manner as those granted in the State itself. This provision does not remove the obligation imposed by national laws requiring the privileged articles to be manufactured in the country enacting such laws.

ART. 4. The consular agents of the nation to which belong or wherein reside the owners of patents, drawings, models, or trade marks shall be considered as the legal representatives of said owners for the purpose of complying with the formalities and conditions established, in order to present the application and secure the filing of said patents, drawings, models, or trade marks in the country wherein it is intended to use them.

ART. 5. The country in which the grantee has his principal establishment or domicile shall be considered as the country of origin.

In case that he should not have any such establishment in any of the signatory countries, that State of the signatory nations of which the claimant is a citizen shall be considered as the country of origin.

ART. 6. For the purpose of preserving the right of priority of patents of invention, models, or designs, and of imported trade marks, a term of one year is granted as to the former, and of six months as to the latter, to be counted from the date of their having been originally issued, for the presentation of the application of the same to the respective authority of the country into which the patent right is to be imported.

ART. 7. All questions which may arise regarding the priority of an invention and regarding the adoption of a trade mark shall be decided with due regard to the date of the application for the respective patent or trade mark in the countries in which they have been granted.

ART. 8. The following shall be considered as inventions: Any new method of manufacturing industrial products; any mechanical or manual apparatus which may be used for the manufacture of said products; the discovery of any new industrial product, and the application of improved methods for the purpose of producing results superior to those already known. The drawings and models of manufacture are subject

to the rules of inventions and discoveries in all that does not apply specially to the latter.

The signs, emblems, or special names that merchants or manufacturers may adopt or apply to their goods or products in order to distinguish them from those of other manufacturers or merchants who deal in articles of the same kind shall be considered as trade marks of commerce or manufacture.

ART. 9. No patent shall be granted with respect to the following:

I. Inventions and discoveries which may have been published in any country, whether it be a party to this treaty or not.

II. Those that are contrary to morals or to the laws of the country in which the patents of inventions are to be granted or recognized.

ART. 10. Trade marks of commerce or manufactures which are in the class provided for in Paragraph II of the foregoing article are likewise barred from being granted or recognized.

ART. 11. The ownership of a patent of invention or of a trade mark involves the right to enjoy the benefits of the one or the other, and the right of assignment or transfer.

ART. 12. The number of years of the patent right shall be that which the laws of the country in which it is desired to make them effective may establish. Such term may be limited to that established by the laws of the country in which the patent of invention was originally granted, if the latter should be shorter.

ART. 13. The civil and criminal responsibilities which those who injure the rights of inventors incur shall be prosecuted and punished in accordance with the laws of the country in which the injury has been committed.

The falsification, adulteration, or unauthorized use of trade marks of commerce and manufacture shall likewise be prosecuted in accordance with the laws of the State in whose territory the infringement has been committed.

ART. 14. The declaration of nullity of a patent or trade mark made in the country of its origin shall be communicated

in an authentic form to the other signatory countries, so that they may decide in an administrative manner regarding the recognition which may be solicited for the respective patent or trade mark granted in the foreign country, and as to what effect such declaration is to produce with regard to the patents or trade marks previously imported into said countries.

ART. 15. The treaties on patents of invention and trade marks of commerce and manufacture previously concluded by and between the countries subscribing the present treaty shall be substituted by the present treaty from the time of its being duly perfected, as far as the relations between the signatory countries are concerned.

ART. 16. The communications that the Governments which may ratify the present treaty shall address to the Government of Mexico for the purpose of making them known to the remaining contracting countries, shall be considered equal to the customary exchange of ratifications. The Government of Mexico shall likewise communicate to them its ratification of this treaty, if it should resolve to ratify the same.

ART. 17. The exchange of copies in the form of the foregoing article having been made by two or more countries, this treaty shall take effect thenceforward for an indefinite time.

ART. 18. In case any one of the signatory powers should desire to withdraw from this treaty, it shall make its abrogation known in the manner prescribed in article 16, and the effect of this treaty, as far as the respective nation is concerned, shall cease one year from the date of the receipt of the respective communication.

ART. 19. The countries of America that may not have signed this treaty originally may adhere to the same in the manner prescribed by article 16.

In testimony whereof the plenipotentiaries and delegates sign the present treaty and affix thereto the seal of the Second International American Conference.

Made in the City of Mexico this 27th day of January, 1902, in three copies, written in Spanish, English, and French, respectively, which shall be deposited at the Department of Foreign Relations of the Government of the Mexican United

States, so that certified copies thereof may be made, in order to send them through the diplomatic channel to the signatory States.

|                             |                              |
|-----------------------------|------------------------------|
| ANTONIO BERMEJO,            | J. N. LÉGER,                 |
| LORENZO ANADÓN,             | <i>For Haiti.</i>            |
| For the Argentine Republic. |                              |
| FERNANDO E. GUACHALLA,      | J. LEONARD,                  |
| For Bolivia.                | F. DAVILA,                   |
| RAFAEL REYES,               | <i>For Honduras.</i>         |
| For Colombia.               | G. RAIGOSA,                  |
| J. B. CALVO,                | JOAQUIN D. CASASÚS,          |
| For Costa Rica.             | E. PARDO, Jr.,               |
| AUGUSTO MATTE,              | JOSÉ LOPEZ-PORTILLO Y ROJAS, |
| JOAQ. WALKER M.,            | PABLO MACEDO,                |
| EMILIO BELLO C.,            | F. L. DE LA BARRA,           |
| For Chile.                  | ALFREDO CHAVERO,             |
| FED. HENRIQUEZ I. CARVAJAL, | M. SANCHEZ MARMOL,           |
| For the Dominican Republic. | ROSENDO PINEDA,              |
| L. F. CARBO,                | <i>For Mexico.</i>           |
| For Ecuador.                | F. DÁVILA,                   |
| FRANCISCO A. REYES,         | <i>For Nicaragua.</i>        |
| BALTASAR ESTUPINIÁN,        | CECILIO BAEZ,                |
| For El Salvador.            | <i>For Paraguay.</i>         |
| FRANCISCO ORLA,             | MANUEL ALVAREZ CALDERÓN,     |
| For Guatemala.              | ALBERTO ELMORE,              |
|                             | <i>For Peru.</i>             |
|                             | JUAN CUESTAS,                |
|                             | <i>For Uruguay.</i>          |

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